



**Addendum to Adopted Final Mitigated Negative Declaration MST2013-00240
For the Proposed 1925 El Camino de la Luz Residence Project
[SCH#2016021035, FMND Dated June 22, 2016, Adopted July 7, 2016]**

**Additional Responses to Public Comment and Clarifications
November 16, 2016**

Addendum Procedure. This addendum to adopted final mitigated negative declaration (FMND) for the residential project proposed at 1925 El Camino de la Luz is prepared in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15164. The Guidelines provide that an addendum to an adopted FMND may be prepared for minor changes or additions not involving new or substantially greater significant impacts or new mitigation measures. The Guidelines provide that an addendum need not be circulated for public review, but can be attached to the adopted FMND and is considered by decision-makers with the adopted FMND when considering action on the project permit application.

Background. A Draft MND was circulated for public review and comment from February 10-March 10, 2016, and a public comment hearing was held by the Planning Commission on March 3, 2016. A FMND dated June 22, 2016 for the 1925 El Camino de la Luz residence project was adopted by the Planning Commission on July 7, 2016. Included as adopted FMND Exhibit H is a summary of comments on the draft MND received during the public review period and topical responses. Additional public correspondence and public testimony received before and during the July 7, 2016 Planning Commission hearing was considered by the Planning Commission. The following written responses to public comment received following the DMND public review period are provided for the record as additions to Exhibit H of the adopted FMND.

ADDITIONS TO FMND EXHIBIT H, SUMMARY OF COMMENTS AND RESPONSES

Further Response to Prior Comments

- 40. *Comment summary/ Views from the Ocean:*** Commenters on the draft MND raised concerns that the project would result in significant impacts to coastal views inland by boaters and kayakers traveling along the ocean.

Response: The following information is added to the adopted FMND Exhibit H topical response to comment 4: The MND concluded that the project would not result in a substantial change to scenic coastal views, including from off-shore viewpoints. However, it is also noted that case law provides that public coastal views subject to impact assessment and protective

policies pertain to land-based scenic views from public parks, trails, and vista points, and do not include views of the coast from offshore ocean-based vantage points. (*Schneider v. California Coastal Commission*, 2006)

Public Correspondence following the end of Draft MND public comment period

- 41. R. Stenson email, July 4, 2016; Comment summary/geologic analysis:** *Asked whether geologic firm was retained by developer or City. Expressed concern about lack of certainty and public understanding of risks. Asserted that it should be established how surrounding property owners would be compensated for any damage caused by the project.*

Response: Geologic firm. Please see MND Exhibit H topical responses to comments 10 and 11. The State CEQA Guidelines (§§15063, 15084) specifically provide for lead agencies to require applicants to submit information needed for environmental document preparation, and that the environmental document may rely on expert opinion supported by facts, technical studies, or other substantial evidence, and may be prepared by the agency staff or applicant consultant subject to agency review. Consistent with City practice, the geologic firm was retained by the project applicant. The firm and geotechnical engineer and engineering geologist that conducted the study are highly qualified experts certified by the State of California. The reports were based on extensive data and analysis and were reviewed by staff and the Coastal Commission geologist. City staff prepared the environmental document based on technical studies submitted and reviewed. Final geotechnical reports would be reviewed and approved by the City Building and Safety Division prior to building permit issuance.

Risk. Please see also FMND section 5 analysis and MND Exhibit H topical responses to comments 10 and 11. The geologic analysis by certified experts and the impact conclusions of the environmental document are based on extensive onsite data collection and testing using professional standards for acceptable levels of public risk per government regulations for geologic analysis and development in areas of geologic conditions. For example, the analysis demonstrates that the project as designed would meet slope stability factor of safety criteria for static and seismic conditions. The project construction process is designed to first stabilize the slope and would incorporate use of inclinometers and groundwater monitors to detect any subsurface movement. The construction process would be directed and overseen by a certified engineering geologist.

Compensation for damage. Please see FMND section 5 analysis and MND Exhibit H topical responses to comments 10 and 11. The analysis concludes that the project would stabilize and not exacerbate geologic hazards compared to existing conditions, and would meet regulatory standards for public safety. The California Government Code provides for City immunity from tort claims associated with development permits issued, and it is standard City practice to apply a condition of permit approval that waives City liability.

- 42. L. & S. Wiscomb letter of July 6, 2016; Comment summary/visual and geologic impacts:** *Questioned timing of Initial Study and public review of revised MND. Asked how visibility from residences in surrounding area was determined without story poles. Asserted that neighbor submittals identifying upper top of bluff, and project inconsistency with bluff face development policies are substantial evidence of a significant impact.*

(42. L. Wiscomb comments and responses, continued)

Response: Initial Study revisions. The MND process followed CEQA procedures. The MND comprises a cover sheet and the Initial Study. CEQA provides for a draft document with public review period, and then preparation of a final document with any revisions. A document is recirculated for public review only when there are new potentially significant impacts and mitigations identified, not when final document revisions involve only refinements and clarifications as is the case here. The proposed final document was made available two weeks prior to the Planning Commission hearing rather than the standard one week, providing an opportunity for public review and comment, as evidenced by the commenter's letter. The environmental document was written by City staff, with the analysis supported by technical studies.

Project visibility from surrounding residences. The project development envelope was staked, and visibility from surrounding area homes was reviewed based on project plans, topography and existing development, site sections, and photos. The analysis showed that the project would not be visible from much of the neighborhood.

Bluff top location. The FMND references evidence from City archive plan files of nearby properties that identified the top of bluff at upper tier locations, and the neighbor submittals are part of the record. The FMND analysis also demonstrates that no significant physical geologic impacts would result from the project regardless of whether the bluff top location is determined at the lower or upper step (i.e., 51 foot or 127 foot elevations respectively).

Bluff face policy. Please see FMND Section 5 and MND Exhibit H topical response to comment 13. The FMND discusses that the potential project conflict associated with a bluff edge determination at the 127 foot elevation is a policy matter relevant to decision-maker action on the project permit, but does not constitute a significant environmental impact under CEQA review.

Public Comments at July 7, 2016 Planning Commission Hearing

43. J. Dorn testimony of July 7, 2016; Comment summary/CEQA document; geologic analysis:
Requested environmental impact report; requested evaluation by City geologist.

Response: MND vs. EIR. Please see FMND Exhibit H topical response to comment 21. The MND analysis demonstrates that the project as designed and with mitigation agreed to by the applicant would not result in significant environmental impacts. When this is the case, the State CEQA Guidelines direct that an MND shall be prepared. There is no substantial evidence in the record that the project may result in a significant impact. As such, under CEQA, an EIR is not required.

City geologist evaluation. Please see FMND Exhibit H topical response to comment 11, and response to comment 41 above.

44. T. Morrison testimony of July 7, 2016; Comment summary/geologic analysis: *Submitted information, including geologic studies identifying upper tier top of bluff locations, and a photograph of the site's steep slope.*

(44. T. Morrison comments and responses, continued)

Response: Please see FMND Section 5, and Exhibit H topical responses to comments 11 and 13, and response 41 above. Submitted information is on file.

45. N. Brock testimony of July 7, 2016; Comment summary/geologic analysis: *Stated that neighbor concerns have been dismissed as without substantial evidence. Requested facts supporting document assertion that the project will improve slope stability and not impact neighboring properties; the existing conditions do not meet slope stability criteria. Need peer evaluation and to consider other geologic reports that differed on top of bluff and landslide considerations.*

Response: *Neighbor concerns and substantial evidence.* The City has not dismissed neighbor concerns. The project and environmental analysis provides detailed assessment of geologic and public safety issues of concern. However, City identification of environmental impact significance is governed by criteria established by California law and regulations, including the California Environmental Quality Act (CEQA) and Guidelines, and professional criteria and regulations for geologic and public safety analysis and development in areas with geologic constraints. Based on these governing criteria, there is no substantial evidence in the record that the project may result in a significant environmental impact. The State CEQA Guidelines (§15064) also include the following criteria:

- The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.
- Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.

Slope stability and impact to neighboring properties; slope stability safety criteria. For facts supporting the FMND conclusions that the project would not have significant impacts to slope stability and neighboring properties, please see FMND Section 5 analysis and the supporting technical studies, including *Geological and Geotechnical investigations and design review reports* (Cotton, Sires and Associates, Inc. 2012, 2015, 2016); *Wave Run-Up and Coastal Hazard Analysis* (GeoSoils, Inc. 2015); *Coastal Bluff Analysis* (Scepan 2012); *shear pin calculations* (C. L. Grant, Civil Engineer 2013); *Project Constraints Analysis* (Dall & Associates 2015); *Hydrology Report* (CSA 2015); and *Grading, Drainage, & Erosion Control Plans* (C. L. Grant, Civil Engineer 2013, 2016), and FMND Exhibit H response to comment 11. The analysis recognizes that the existing condition of the proposed development envelope does not meet minimum factor of safety criteria for slope stability, and that the proposed project as designed with slope stabilization components would stabilize the slope in a manner exceeding minimum slope stability safety criteria. The slope stability components (e.g., caissons, shear pins, and tie backs) together with drainage controls and vegetation would improve slope stability for the immediate site and neighboring properties compared to existing conditions, and would meet public safety regulations and design criteria.

(45. N. Brock comments and responses, continued)

Peer evaluation; other geologic reports. Please see FMND Exhibit H response to comments 11 regarding peer review and consideration of other geologic reports, and response to comment 41 above.

46. B. Peterson testimony of July 7, 2016, *Comment summary/geologic analysis: Objects to applicant representative's comments about top of bluff location. Finds project inconsistency with Coastal Commission guidelines for bluff top location, and City coastal plan policy prohibiting development on the bluff face.*

Response: Please see FMND Exhibit H response to comment 13 regarding top of bluff determination and potential project inconsistency with coastal policies.

Applicant Correspondence

47. R. Monk letter of July 1, 2016.

Comment summary/coastal bluff location: Based on the only surveyed information and consistent with adopted coastal regulations and 1997 guidelines and Coastal Commission 1984 Doolittle CDP decision, the surveyed coastal bluff edge location on the Parcel is between 48-52 feet MLLW.

Response: Please see FMND Exhibit H response to comment 13. *Topographic survey:* Determination of bluff edge location is a qualitative judgment based on consideration of topography and application of coastal regulations and guidelines for the purpose of determining a development setback. Staff analysis did based its determination on surveyed topography submitted as part of project plans and geotechnical reports. *Controlling CCC Guidelines/criteria:* The 1997 Guidelines are not part of the City LCP nor referenced in the LCP geologic discussion or policies, and are outdated. The 2003 guidelines provide the current methodology and standard of practice employed by the Coastal Commission staff for evaluating setbacks for bluff top development to inform the Coastal Commission, local agencies, and public. The 2003 Guidelines are also adopted Appendix K of the 2011 City General Plan. *Prior CCC decisions.* The prior CDP permit issued to Doolittle for limited slope repair work following the landslide on sites 2001, 1927, and 1933 El Camino de la Luz and associated findings do not represent precedent for new development of a residence on the project site at 1925 El Camino de la Luz. The technical and staff reports for the Dolittle permit state that further analysis would be required for residential development in the area, and analysis for the current application appropriately uses the current 2003 Coastal Commission staff guidance.

Comment summary/staff determination of coastal bluff location: The Coastal Commission staff and City staff suggestion of bluff edge location at 127 foot elevation is unsupported by topographic survey performed pursuant to the controlling criteria, any field notes, or written expert analysis of existing coastal bluff conditions in light of the controlling criteria, which does not meet the CEQA standard for substantial evidence, and would render the property unbuildable.

(47. R. Monk comments and responses, continued)

Response: Please see FMND Exhibit H response to comment 13. City Planning staff and Coastal Commission staff identified the bluff as having a step-like condition, with the edge of bluff at the upper step at 127 foot elevation. This bluff edge identification was based on substantial evidence, including review by City planning staff, Coastal Commission analyst, and Coastal Commission geologist (Dr. Mark Johnsson) of the site topography, submitted project plans and technical reports with surveyed topography, geotechnical studies, and hydrology analysis, a site visit by City staff and Coastal Commission staff analyst and Geologist, and analysis/application of the coastal bluff edge policies using current Coastal Commission regulations (*CCR Title 14 §13577*) and guidance (*Mark Johnsson, Establishing development setbacks from coastal bluffs, 2003*). This determination is also supported by evidence from prior geologist determinations for the area and archive plans for other properties in the area. Dr. Johnsson's professional opinion is that the landslide headscarp is the coastal bluff edge on this parcel at approximate elevation 127 feet. Please see Dr. Johnsson's memorandum dated August 9, 2016 on the matter.

Comment summary/ bluff edge regulation criteria: *The 1997 Coastal Commission Guidelines (Geologic Stability of Blufftop Development) incorporated in the City LCP require that any step-like feature have a minimum 10 foot vertical height, and the upslope area of the site does not meet the definition of step-like feature or 10 foot vertical height.*

Response: Please see FMND Exhibit H topical response to comment 13. *Ten-foot vertical height.* The referenced 1997 guidelines state that a bluff has a minimum ten feet vertical height; it does not state that each step of a bluff with a step-like feature must have a minimum vertical height of ten feet. The diagram referenced identifies a bluff with only one step. The project site bluff includes more than a 10-foot vertical height. Other jurisdictions in California recognize that a bluff with a step-like feature will typically have a steeper section nearest the coast and less steep section at an upper tier, for example the Newport Beach definition based on the statewide interpretive guidelines: "A bluff may consist of a steep bluff face below and a more sloping upper bluff above." *Guidelines.* The 1997 Guidelines are not incorporated in the City LCP, and are outdated. The 2003 Guidelines represent the current methodology employed by the City and Coastal Commission. The FMND analysis and topical response to comment 13 provide evidence of a step-like feature as described in the current, applicable Coastal Commission guidelines.

Comment summary/ 500 foot bluff edge criterion: *The Coastal Commission regulation (Section 13577(h)(2)) for identifying the bluff edge requires a minimum five hundred foot length of bluff edge. This applies to all bluff edge determinations, including for a rounded bluff, a bluff with a step-like feature, and a coastal bluff transition to a canyon bluff. The landslide headscarp on the site does not meet the 500 foot criterion.*

Response: Please see FMND Exhibit H response to comment 13. *500 feet criterion.* Coastal Commission staff explained the appropriate application of this 500 foot criterion in the Section 13577(h)(2) regulation. The phrase "to be used in making these determinations" means the minimum distance to be considered in making a determination of a bluff edge, not the minimum length of a bluff edge. This criterion is used in distinguishing between coastal facing

(47. R. Monk comments and responses, continued)

bluffs and inland canyon or river slopes where the two transition and assure that minor indentations in a coastal bluff do not constitute a transition to a canyon bluff.

Comment summary/prior coastal bluff edge, impact, and policy consistency decisions: *Prior Coastal Commission and City actions and findings on the Doolittle permit (4-84-17) for post-landslide grading and other work differentiated between the coastal bluff edge location and the landslide headscarp, and found the work consistent with coastal policies and having no significant environmental effects. Per Coastal Act section 30625, decisions of the Coastal Commission shall guide future actions of local governments.*

Response: *Prior decisions.* Please see FMND Exhibit H topical response to comment 13, and response above to coastal bluff location item.

Comment summary/ bluff edge location: *The location of bluff edge identified by staff at 127 foot elevation has physical conditions not consistent with a bluff edge per regulations, including earthen buttress of the wastewater trunk line trench and pipe, and remnant fill and pavement from prior residential development.*

Response: *Location of bluff edge at 127 foot elevation.* Please see FMND Exhibit H topical response to comment 13 and response above to determination of coastal bluff location item. Coastal Commission Geologist Mark Johnsson identified that the earlier bluff edge was destroyed by the landslide, and a new bluff edge established at the headscarp of the landslide.

Comment summary/project compliance: *The evidence supports the identification of the coastal bluff edge at 48-52 foot elevation, a substantial development setback and a project design addressing geologic constraints consistent with coastal bluff protection policies, such that project approval under the Coastal Act takings avoidance provisions is unnecessary.*

Response: *Project compliance.* Please see MND Exhibit H topical response to comment 13. The FMND evaluation concludes that no significant physical impacts would result regarding geologic and public safety at either a 50-foot or 127-foot elevation bluff edge determination. The final determination for location of the bluff edge and associated policy consistency determinations are a matter for decision-makers as part of their subsequent consideration of the coastal development permit application. In the event that they determine the project as proposed to be inconsistent with coastal policy, they may consider an action under the Coastal Act provisions for takings avoidance.

Comment summary/ recommended measures: *The Emprise Trust concurred in identified DMND mitigation measures, and also concurs, with clarifications, in additional measures identified in the FMND for biology (RM B-2), construction equipment sound control (RM N-5), neighbor notification (RM N-6), lighting design (RM V-1), and drainage/storm water management (RM WQH-1), and standard archaeological resources condition for unanticipated discovery procedures. However, recommended measures pertaining to construction noise which involve construction start time, construction hours, and noise barriers do not have a nexus of an unmitigated potentially significant environmental effect,*

(47. R. Monk comments and responses, continued)

would exceed adopted Municipal Code standards, and are likely infeasible and could prevent project implementation, resulting in the City "taking" the Parcel.

Response: *Recommended measures.* As stated in the FMND, recommended measures are not mitigations required to reduce potentially significant impacts. They are actions that may further lessen adverse but not significant impacts, and they are identified for consideration by decision-makers when taking action on the project permit application. Decision-makers are not precluded from applying permit conditions more stringent than standard ordinance provisions if they determine they are appropriate to further reduce adverse but less than significant environmental effects and needed to implement policies and/or make required findings for permit approval. Such conditions would therefore not constitute a potential taking of property.

Comment summary/construction start time: *The proposed measure RM N-4 would alter the construction start time from the 7:00 a.m. time established in the Municipal Code to 8:30 a.m. This would result in a four-month extension of the construction period and increased costs. This measure is not needed given the buffering of the construction easement area along the north and east with tall vegetation, and retaining walls with closed fencing, and distance of surrounding residences.*

Response: *Construction start time.* As stated in the MND, a further limitation on construction hours would reduce noise effects at the time the noise is occurring, but would also be expected to extend the overall duration of the construction process and associated noise by a few months. Comments were received from Commissioners and neighbors expressing concern about noise effects to neighbors in the quiet residential neighborhood setting, and the construction start time. This measure to establish a later start time toward further reducing noise effects can be considered by decision-makers as part of their deliberations and actions on the project permit request in the context of policy consistency and required findings for permit approval.

Comment summary/ equipment noise barriers for stationary equipment (RM N-7): *The mobile drilling rig cannot be retrofitted to meet the 50 dBA standard at the property boundary, so this measure would preclude project implementation resulting in a taking of the parcel. The applicant would accept a requirement to locate and shield stationary equipment such as compressors and generators to meet City standards.*

Response: The recommended measure is identified for consideration by decision-makers to further reduce adverse but less than significant construction noise effects, given the quiet residential setting. The recommended measure provides that stationary construction equipment that generates noise exceeding 50 dBA at the property boundary be shielded with a barrier that meets a sound transmission class (STC) rating of 25, and that air compressors and generators shall be surrounded by temporary acoustical shelters. The measure does not state a requirement for retrofitting a mobile drilling rig; it reflects general wording like "barriers" and "acoustical shelters" as has been used on past project applications for stationary equipment. The decision-makers may adjust the measure requirements as deemed appropriate for feasibility given site and project circumstances. A project may be conditioned for provisions in excess of Municipal

(47. *R. Monk comments and responses, continued*)

Code standards if there is basis for doing so with specific project circumstances, to reduce adverse environmental effects as needed to implement policies or provide a basis for required permit approval findings, as determined by the decision-makers. Application of such conditions would therefore not constitute a taking of property.

Comment summary/building crack survey measure (RM N-8): *This measure has no basis in an identified potentially significant impact.*

Response: The FMND identifies project impacts associated with construction-related vibrations to be adverse but not significant. RM-8 is not a required mitigation measure for reducing a potentially significant impact to a less than significant level; it is a recommended measure for further minimizing an adverse but less than significant impact. It was identified for decision-maker consideration based on neighbor concerns about subsurface components of the project (e.g., deep caisson installation). This measure has been applied to projects in the past when subsurface components such as underground parking are involved, or when a project is near historic structures, to support a finding of a project's consistency with City policies or required findings for permit approval action. Decision-makers may also adjust the content and/or wording of the measure as they deem appropriate.

48. N. Dall, July 5, 2016, Comments and Requests for MND Clarifications

Comment summary/ project description: *1-Lemonade berry: the comment suggests changes to references. 2- View easement: the comment requests clarification to the reference to air space public view easement. 7-Garage: the comment notes that the correct figure for the revised garage size is 571 ft². 8- Vegetation and easements: the comments are the same as items 1 and 2 comments. 10-Geologic stability components: the comment suggests revised verbiage for describing project slope stability components. 11- Driveway width: the comment requests clarification of MND reference.*

Response: *1-Lemonade berry references:* Please see FMND Exhibit H response to comments 9, 24, and 30. *2-View easement:* The FMND description has been clarified to state that the proposed easement would be across the entire parcel. *7-Garage:* The FMND project description already identifies the revised garage size as 571 SF. *8-Vegetation and easements:* Please see FMND Exhibit H response to comment 9, 24, and 30, and response 2 above. *10-Geologic stability components:* Project geologic stability components are appropriately summarized in the Final MND written project description, with further description detail and discussion provided in the MND geologic analysis section, project plans, attachments, and referenced technical reports. *11-Driveway:* The MND identifies that the project driveway augmentation would involve an additional 540 feet of pavement.

Comment summary/ MMRP: *3-The comment asserts that the MMRP attachment is missing from the MND web site.*

Response: *MMRP.* The commenter is in error. The MND Mitigation Monitoring and Reporting (MMRP) attachment has been posted to the environmental documents web site with the MND since the MND was posted.

(48. *N. Dall comments and responses, continued*)

Comment summary/ La Mesa Park: 5-The comment notes that the project cannot be seen from La Mesa Park due to intervening homes, trees, and vegetation.

Response: La Mesa Park. Comment acknowledged.

Comment summary/ additional submittals: 4-Response to Comments: the comment notes that his responses to the MND Attachment H staff responses to comment are provided under separate cover. 6-Photo-documentation and visual simulations: the comment notes that additional analysis provided depicts the revised project from viewpoints on the lower beach and up to one mile offshore (Plan Sheet A0.04B Extended Site Sections 07-05-16). 9-Plan submittals: the comment notes that the applicant produced a conformed set of project plans for the Planning Commission hearing on July 7, 2016.

Response: 4-Additional letter: Please see responses to item #47 letter from R. Monk above. 6 and 9-Additional submittals: Comments acknowledged. The referenced submittals are part of the Final MND record. Please also see response #40 above regarding views from offshore.

Comment summary/ environmental setting: 12-Bluff: the comment suggests alternate wording for environmental setting with respect to coastal bluff. 13- Coast: the comment suggests MND reference to the coast is too vague and suggests alternate wording. 14-Cliff: the comment objects to use of the term "lower cliff location" and suggests alternate wording. 15-Vegetation: the comment suggests alternate characterization of vegetation and biological resources on the project site. 16- Cliff: the comment objects to use of the term "lower bluff tier" and suggests revised wording. 17- Unstable Slopes: The comment asserts that the project site should not be characterized as subject to unstable slopes. 18- Landslide Debris: The comment asserts that reference to remaining landslide debris on the site should be characterized as landslide structural debris buried by the City.

Response: 12-Bluff: Please see FMND Exhibit H topical response to comment 13 regarding coastal bluff. 13-Coast: Commenter's opinion is acknowledged. 14-Cliff: Commenter's opinion is acknowledged. Please see FMND Exhibit H topical response to comment 13. 15-Vegetation: Please see FMND Exhibit H topical response to comments 9, 24, and 30 and the FMND Section 3 biological resources analysis regarding on-site vegetation and biological resources. The FMND recognizes and references the biological technical report. 16-Cliff: Please see FMND Exhibit H topical response to comments 9, 24, and 30. 17-Unstable slopes: Please see FMND Exhibit H topical response to comment 12. 18-Landslide debris: The FMND brief environmental setting summary of existing site characteristics correctly references that some landslide debris remains on the site, which is also noted in various referenced project technical reports. Further discussion is provided in FMND Sections 6 (Hazardous Materials) and 9 (Solid Waste).

Comment summary/ existing land use: [Note: N. Dall correspondence numbering of comments following item 19 skips numbers 20-28 and continues with item 29.] 19-Facilities: the comment suggests further detail be added to the description of remaining facilities on site. 29-Mesa trunk line: the comment objects to word choice in description of the location of the Mesa Trunk Line [Note: comment ends with incomplete sentence.] 30- Homeless encampment: the comment objects to vague and inaccurate characterization of homeless encampment. 31-

(48. N. Dall comments and responses, continued)

Former access path on 1925, 1927 ECDLL: the comment suggests additional detail describing destruction of path due to the landslide and erosion.

Response: *19-Facilities:* The summary description of existing land use includes appropriate reference that remnant public and private infrastructure and the Mesa Trunk Line exist on the site. *29-Mesa trunk line:* The FMND description and attached maps are clear regarding the location of the Mesa Trunk line in relation to the proposed project development. *30- Homeless encampment:* The FMND summary discussion appropriately identifies that the lower portion of the site has been reported to have had unauthorized use as a homeless encampment. *31- Former access path on 1925, 1927 ECDLL:* The FMND appropriately identifies as part of the existing land use discussion that the former foot path no longer exists due to the landslide, and the referenced technical reports are already part of the FMND.

Comment summary/ neighboring land uses: *32-Bluffs and vegetation: the comment objects to verbiage used in describing bluffs and vegetation.*

Response: *32-Bluffs and vegetation:* The commenter's opinion is acknowledged. The MND summary description of characteristics of surrounding land uses appropriately references bluffs and vegetation.

Comment summary/ property characteristics: *33-Slopes: the comment suggests revision to the reference to slope gradients. 34-Surrounding zones south: the comment requests clarification of zoning reference.*

Response: *33-Slopes:* The purpose of the referenced section of the MND is to briefly identify existing slopes on the property; not to provide a discussion of the past history of activity on the site that may have affected the topography. *34-Surrounding zones south:* The MND reference is correct. The beach area to the south of the project site presently does not have designated zoning.

Comment summary/ plans and policies: *35-Coastal Act policies: the comment states that applicable Coastal Act policies are those in PRC sections 30210-30224, not the entire Coastal Act.*

Response: *35-Coastal Act policies:* The Santa Barbara Municipal Code 28.44.150 provides the following: "In order to approve a coastal development permit, the following findings shall be made: A. The project is consistent with the policies of the California Coastal Act; ..." The MND discussion on the page subsequent to the referenced page provides initial analysis of key coastal policies in keeping with requirements of CEQA. As part of the staff report on the project CDP request, further analysis will be provided as to project consistency or inconsistency with applicable policies of the California Coastal Act.

Comment summary/ coastal policies: *36-Visual and biological resources: the comment objects to use of the term "native vegetation" as used in the MND. 37-Coastal landforms: the comment requests changing the MND text from "coastal landform resources" to "landforms along bluffs and cliffs". 38-Coastal hazards/bluff edge: the comment disagrees with the MND discussion and basis of bluff edge location as pertaining to coastal policies, and requests that the discussion be deleted from the MND.*

(48. N. Dall comments and responses, continued)

Response: 36-*Visual and biological Resources:* Please refer to FMND Exhibit H response to comments 9, 24, and 30 with regard to use of the term “native vegetation.” 37-*Coastal landforms:* The commenter’s opinion is noted. The language in the MND is appropriate. 38-*Coastal hazards/bluff edge:* Please refer to FMND Exhibit H topical response to comment 13 with respect to discussion of bluff edge location, and Dr. Johnsson’s memo dated 08-09-16.

Comment summary/ note about CEQA case law: 39-*Initial Study geologic analysis – the comment objects to a reference to existing geologic hazards.*

Response: 39- *Initial Study geologic analysis* – Please refer to FMND Exhibit H response to comments 12 regarding CEQA evaluation of impacts. The referenced text accurately conveys that the scope of analysis for the project Initial Study includes evaluation of the project for impacts associated with existing geologic hazards.

Comment summary/ visual resources: 40-*Visual setting – the comment requests clarification of description of existing views.* 41-*Scenic view impacts- the comment requests adjustments to the locational description of the project development envelope regarding elevation.* 42-*View of project from beach and ocean – the comment requests clarification to MND discussion of view impacts to reference the supplemental line-of-site exhibits submitted.*

Responses: 40-*Visual setting:* The referenced MND description of existing views has been clarified per the comment. 41-*Scenic view impacts:* Based on project plans submitted, the proposed residence and associated development components would be located between the 80 and 130 foot elevations on the property as referenced in the MND. 42-*View of project from beach and ocean:* Please see response to comment 48/item 6 above, and response 40.

Comment summary/wildlife habitat: 43- *wildlife habitat - the comment objects to the MND characterization of the coastal slopes in the project area as a migratory corridor and nesting site for birds and other wildlife species.*

Response: 43-*wildlife habitat*– The FMND biological resources analysis is supported by both the project-specific technical study and other identified references (e.g., City Master Environmental Assessment, General Plan Program EIR). Clearly the coastal slopes of the Mesa provide wildlife habitat and function as a migratory corridor for birds, as is well documented and recognized by the City as well as Federal and State wildlife agencies.

Comment summary/geology: 44- *Existing conditions – the comment disputes the FMND characterization of geologic landforms and soils on the site as unstable.* 45-*Bluff edge location – the comment disputes use of the term “lower sea cliff”.* 46-*Slope stability – the comment disputes the FMND discussion of slope stability factors, asserting that reference to the 1997 Coastal Commission guidance document should be included.*

Response: *Geology.* 44- *Existing conditions:* Please refer to FMND Exhibit H topical response to comment 12. The project technical studies, as well as the City Master Environmental Assessment, General Plan Safety Element, General Plan Program EIR, and other geological studies in the area, all clearly identify existing landforms and soils on the site and surrounding area as generally unstable and not meeting minimum factor of safety criteria for slope stability,

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as also evidenced by the past landslide activity. *45- Bluff edge location:* Please refer to FMND Exhibit H topical response to comment 13 regarding bluff edge location. *46-Slope stability:* Please refer to FMND Exhibit H topical response to comment 13 regarding outdated and current Coastal Commission guidelines for coastal bluff development and setbacks.

Comment summary/erosion: *47-erosion - the comment disputes the MND discussion that the project geology report analysis of long-term erosion did not factor in a setback from areas naturally meeting factor of safety criteria for slope stability.*

Response: *Erosion.* Please refer to FMND Section 5 Geology analysis, Exhibit H response to comment 13, and project technical memo of January 5, 2016).

49. N. Dall, July 5, 2016, Proposed Mitigation Measures/Conditions

Comment summary/introduction - comment refers to new and revised mitigation measures.

Response: *Introduction.* Mitigation Measures identified in the MND are measures required to reduce potentially significant impacts to less than significant levels, and the applicant has agreed to incorporate these measures as part of the project. The Final MND does not include new or revised Mitigation Measures since the Draft MND. As stated in the MND, identified Recommended Measures are not mitigation measures required to reduce potentially significant impacts; they are actions that may further lessen adverse but not significant impacts, and may be considered and applied by decision-makers when taking action on the project as determined necessary to implement policies and/or make required findings for the permit action.

Comment summary/1-RM B-2 native vegetation and landscaping – word correction.

Response: *Word correction.* In the first line of the measure, the word “and” is deleted.

Comment summary/2-standard condition for archaeological resources discovery – the comment objects to application of the City standard condition for procedures in the event of unanticipated discovery of archaeological resources during earthwork for project construction.

Response: *Archaeological resources discovery.* The letter dated July 5, 2016 from Richard Monk representing the applicant states that the applicant supports the standard unanticipated discovery condition for archaeological resource protection. Please refer to the FMND Section 4 analysis of project effects associated with archaeological resources. The unanticipated discovery measure is a standard condition applied per Master Environmental Assessment and ordinance procedures in areas identified as potentially sensitive for subsurface archaeological resources. The measure is consistent with and implements the City Master Environmental Assessment procedures, Coastal Act and Local Coastal Plan policies for protection of cultural resources, and the Santa Barbara Municipal Code §22.12. Standard application of the measure supports the FMND finding that no significant project impacts to important subsurface archaeological resources would result from the project.

(49. N. Dall comments and responses, continued)

Comment summary/2.2 design review –requests clarification of scope of design review.

Response: *Design review.* Design review approval of more detailed plans for landscaping, biological restoration, and exterior lighting would need to be found consistent with decision-maker direction reflected by a CDP approval action.

Comment summary/2.3 Dept. of Fish & Wildlife fee - comment requests clarification on the timing of DFW fee payment.

Response: *DFW fee.* Fee payment following project approval is a required item for filing a Notice of Determination at the County Clerk within five working days pursuant to CEQA provisions.

Comment summary/ 2.4 standards for biological resources design – comment requests clarification of standards for SFDB design review of the biological resources component.

Response: *Biological resources design.* More detailed project plans and operational notes for biological resources design submitted for design review approval need to reflect the approved project conditions and project biological report recommendations incorporated as part of the project. Please refer to adopted City design guidelines for additional design review standards.

Comment summary/ 2.5 biologist – the comment requests standards for City determinations of qualified biologists.

Response: *Biologist qualifications.* Per the MEA Guidelines, the City determines requisite educational, experience, and (as needed) certification qualifications for a biologist commensurate with the project-specific scope of work to be performed and type of biological resources involved.

Comment summary/ Items 3-9 - Recommended Measures – the comments object to or request clarifications for identified recommended measures for noise, lighting, and water quality/hydrology.

Response: *Recommended measures.* Please refer to responses to comment 47 above regarding recommended measures.

50. U. S. Fish & Wildlife Service letter, Stephen Henry and Lara Drizd, August 25, 2016;

Comment summary/ monarch habitat: Noted that database references monarch butterfly habitat on the Mesa; asked what potential there is for the project to affect monarchs or their habitat, and recommended a monarch survey.

Response: *Monarch habitat.* The project biologist report (WRA Environmental Consultants June 2012, April 2015) noted that there were no observances or past documentation of monarch butterflies on the project site, and that the project site itself contains no eucalyptus, oak, sycamore, or other trees. The report identified that there were locations with eucalyptus trees within a quarter mile of the project site (past documented habitat–La Mesa Park, Meade 1999; potential habitat - 1921 El Camino de la Luz, 2012), and that monarchs could potentially use the low altitude air space over the project site to fly between winter roosts or temporarily rest in the lee of shrubs.

(50. USFWS comments and responses continued)

The WRA report recommends a pre-construction monarch survey for any planned fall-winter construction, with a provision to consult with resource agencies if monarch habitat is identified. The proposed project description incorporates the recommendations of the project biologist report. City staff also recommended to decision-makers a condition of permit approval specifying implementation of the project biologist report recommendations including the monarch survey, a condition agreed-to by the applicant.

51. N. Brock, October 20, 2016 email; *Comment summary/ landslide causes; slope stability and financial liability to neighbors; removal of landslide debris; restoration of construction staging area; removal of dead trees.*

Responses:

Landslide causes: The commenter is welcome to submit information pertaining to the 1978 landslide. Applicant assertions regarding causes of the landslide have not been demonstrated as conclusive.

Slope stability and financial liability to neighbors: The project technical reports by expert geotechnical engineer and engineering geologist are based on extensive data and analysis, and conclude that project slope stabilizing components would improve slope stability on the parcel and neighboring parcels compared to existing conditions. Further detailed design of these components would be submitted, and reviewed and approved by the City, prior to building permit issuance by the Building and Safety Division. The commenter's comments and opinions regarding relative value of properties in the area compared to the project parcel are noted.

Landslide debris removal: Removal of landslide debris within the project development envelope and any hazardous materials identified during the site preparation or construction process would be directed, monitored, and inspected by a licensed geotechnical engineer as a standard requirement of the building permit. Control and proper disposal of any hazardous materials discovered is required and governed by State regulations. Project demolition, earthwork, and construction processes are also subject to monitoring by a designated project environmental coordinator.

Restoration of construction staging area: The project description includes restoration of the temporary construction staging area proposed to be located on the adjacent 1921 El Camino de la Luz property, including post-construction measures for drainage, water quality control, and revegetation. Restoration would be a condition of project approval, and subject to design approval by the Single Family Design Board with implementation subject to a City compliance check.

Removal of dead trees: The removal of trees at 1921 El Camino de la Luz is outside the scope of the current project at 1925 El Camino de la Luz project. The City Planning Division office may be contacted for information regarding procedures on this matter.

CEQA FINDING

In accordance with State CEQA Guidelines Section 15162, no subsequent negative declaration or environmental impact report is required for the current project, because information provided in this addendum to the adopted final mitigated negative declaration (FMND) is not substantial and does not involve new significant impacts or a substantial increase in the severity of previously identified impacts.

This addendum provides written documentation for the record of responses to public comment received following the draft public review period, and provides minor wording clarifications to the FMND.

The adopted FMND analysis concludes that, as designed and with application of identified mitigation measures agreed to by the applicant, the project will not result in significant environmental impacts. The adopted FMND (SCH#2016021035) together with this addendum constitutes adequate environmental review documentation in compliance with CEQA for the current project.

Prepared by:  Date: November 16, 2016
Barbara R. Shelton, Project Planner/Environmental Analyst

Reviewed by:  Date: November 16, 2016
Beatriz Gularte, Senior Planner

Exhibit: Correspondence about MND received following DMND public comment period

EXHIBIT

Correspondence about MND received following MND public comment period

- Robert Stenson (email of 07-04-16)
- Scott and Lesley Wiscomb (letter of 07-06-16)
- Steven Kaufman and Richard Monk, representing applicant Emprise Trust (letter of 07-01-16)
- Norbert Dall, representing applicant Emprise Trust (email 07-05-16, comments dated 06-22-16)
- Stephen Henry, U. S. Fish & Wildlife Service (letter of 08-25-16)
- Nancy Brock (email of 10-20-16)

Addendum to FMND (SCH#2016021035) - Exhibit
1925 El Camino de la Luz Residence Project (MST2013-00240)
November 16, 2016

Kennedy, Kathleen

From: Rodriguez, Julie on behalf of Community Development PC Secretary
Sent: Tuesday, July 05, 2016 8:00 AM
Cc: Gularte, Beatriz; Vincent, Scott; Kennedy, Kathleen
Subject: FW: FMND/2013-00240

Re: 1925 El Camino De la Luz

From: robert stenson [mailto:rsten63683@aol.com]
Sent: Monday, July 04, 2016 10:51 AM
To: Community Development PC Secretary
Subject: FMND/2013-00240

To: Planning Commission Secretary
Re: FMND rearding MST2013-00240

1) Was the geologic firm (Cotton, Shires, and Associates) involved in assessing the geology, surface stability, or build-ability of the site under consideration retained by the City of Santa Barbara or was the firm retained by the developer?

In the past there were indications that the City would be the one to retain geologic services in order to remove any hint of bias engendered by having the developer retain such services. Was that indeed the fact?

2} It is in the nature of proposals to deal in future events. As such certainty is ruled out while probability, judgement(subjective), and chance enters. Thru-out this report conditional terms such as "would"

are used rather than the definitive term "will" as in ".... and tie backs **would** improve stability of the site,,,". (P25, pp2)

There is no way for a lay person to understand the risks associated with construction on an inherently unstable slope requiring artificial stability measures to stabilize.

Printed resasurances are one thing but numbers representing stability, the improvement thereof and the +/- uncertainty of such numbers are another. If one cannot give an estimate of the chance of slope slippage

without ties how is one to understand the "improvement" in chance of slippage with ties?

Also noted in the "Short-term construction impacts" (P25, pp2) is the relatively modest assurance given to surrounding properties. It is these properties, constructed years to decades in the past, that will bear the brunt of earth movement, vibration, drilling etc. it is entirely unclear how far stabilization techniques extend into surrounding properties.

The subjective nature of the risk assessment is highlighted by the statement "Short-term project impacts associated with slope stability, landslide, and erosion would be mitigated to a less than significant level." (P25, pp3)

How is anyone supposed to objectively judge less than significant or more than significant or just significant. It should also be noted that categorizing what is less than significant or more than significant depends not just on technical expertise but also on how much skin in the game the observer has.

So what might be less than significant to a plane designer in Seattle may very well be more than significant to the pilot of the plane or a passenger therein.

3) With these considerations in mind I find it hard to believe that the Planning Commission could permit the development of the slope in question, a slope that past geologists have considered non-buildable.

If a decision is made to proceed thought needs to be given to how to compensate surrounding property owners from any fallout damages that might result from the proposed construction. Whether this takes the form of bonding or escrow accounts or other alternatives is unclear. However, these issues are, I believe, easier to address before the fact rather than after the fact.

If in fact construction does proceed, and damages to surrounding properties does occur, the question that will arise regarding the permitting process will be "What Were They Thinking". Again this is a question that is easier to ask and answer before the fact than after.

Robert Stenson
2007 Edgewater Way
Santa Barbara, Ca
93109

06 July 2016

To: City of Santa Barbara Planning Commission
Re: 1925 El Camino de la Luz Mitigated Negative Declaration (MND)

Dear Planning Commissioners,

We reside across the street from the proposed project at 1925 El Camino de la Luz. We firmly believe that an EIR should be required for the project and make the following comments to support our belief:

1. Our understanding is that the text for the "Initial Study" is to be completed before public hearings (initial hearing held in March) but applicant's initial study has since been revised (in late June) from 37 pages to 59 pages with no opportunity for public comment. This appears to be an inappropriate procedure that justifies a violation of CEQA.

We are also concerned by the fact that the applicant's extensive revisions to their initial study, submitted on June 22, 2016, and the current Staff Report are now being used as the basis for determining there is no significant environmental impact. This "revised" initial study and current staff report should not be used to determine that only a less rigorous MND is required, rather than an EIR, because the statements in the revised study were written by the applicant and no public comment period was offered.

2. The applicant was not required to install story poles to the proposed height (only building footprint) of the proposed development. Three neighbors, all directly across from 1925 ECdLL, were required to hire surveyors and install story poles to the proposed heights of our respective developments as a condition of seeking permits. Without this information, how is it possible to make the Staff's determination that: *"Portions of the residence would be partially visible from some residences in the surrounding area but not from a large portion of the neighborhood... The project would not result in a significant impact on private views."*
3. Staff's Report states that *"...no substantial evidence was presented in any of the letters, or in any of the public testimony that, with the identified mitigation measures agreed-to by the applicant, the project would have a significant effect on the environment. As stated in the CEQA Guidelines section referenced below, the existence of public controversy without substantial evidence does not require preparation of an EIR."*

We refer you to the bluff-side residents on ECdLL who brought property deeds to the last meeting that clearly illustrated "top of bluff" on their respective properties with development restrictions therein. It seems this constitutes substantial evidence and *"Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts."*

4. Last, but certainly not least, is determination for the top/face of bluff. Staff states that *"With the exception of drainage systems identified in Policy 8.1, no development shall be permitted on the bluff face except for engineered staircases or accessways to provide public beach access and pipelines for scientific research or coastal dependent industry..."* "In order to determine whether

the proposed project is potentially consistent with Policy 8.2 above, the location of the bluff face and the top of bluff/ bluff edge must first be determined."

How can an MND be adopted by the Planning Commission when top and face of bluff are in dispute? Should the top of bluff / bluff edge be determined to be at the 127-foot contour as identified by City and Coastal Commission staff, the project would be inconsistent with LCP Policy 8.2.

We are concerned by the staff's reliance on using an MND, when the proposed project calls for a bluff face development that clearly contravenes the state Coastal Act and coastal policies. The environmental documents in the staff report and in the MND claim that determination of the top of bluff and setback are deemed irrelevant to any potential impact on the environment and are therefore being ignored.

In summary, we question the use of a MND when the project violates a statewide and City policy regarding construction on the bluff. That would create a significant adverse environmental impact and trigger the requirement for an EIR. The revisions to the "initial study" are certainly neither the equivalent nor adequate for the applicant to avoid doing an EIR that should have been done in the first place.

Sincerely,

Scott Wiscomb

Lesley Wiscomb

Scott and Lesley Wiscomb
1930 El Camino de la Luz

RW WATSON GERSHON
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July 1, 2016

BY ELECTRONIC MAIL AND HAND DELIVERY

Hon. John Campanella and Members
City of Santa Barbara Planning Commission
630 Garden Street
Santa Barbara, California 93101
Attn.: Ms. Kathleen Kennedy

**Re: 1925 EL CAMINO DE LA LUZ PROJECT MND -- FURTHER
RESPONSE TO PLANNING COMMISSIONER
COMMENTS/QUESTIONS OF MARCH 3, 2016**

HEARING DATE: THURSDAY, JULY 7, 2016

Dear Mr. Chairman and Commissioners:

We represent the Emprise Trust (Thomas Felkay, Trustee), the applicant for the single-family residential reuse and site restoration project, with its accompanying substantial public benefits, at 1925 El Camino de la Luz ("ECDLL", APN 045-100-024, the "Parcel").¹ Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND, June 22, 2016) for the project, which Staff has recommended for approval.

We concur with Staff's comprehensive analysis in the MND that the project, with its incorporated and agreed-upon mitigations, has no potentially significant individual or cumulative adverse environmental effect(s) generally or, for that matter, on coastal resources.

As further discussed below, the project has now been reduced in size and otherwise enhanced in response to questions/comments raised by your Commission and City

¹ The Parcel is located in the California coastal zone, where the Coastal Act, adopted Coastal Commission regulations, and certified City Local Coastal program (LCP) control over conflicting other City-adopted plans, ordinances, and resolutions (e.g., for adoption of guidelines or similar devices). (Public Resources Code [PRC] section 30103; Coastal Commission-adopted City of Santa Barbara Post-LCP Certification Permit and Appeal Jurisdiction Map, July 17, 1991; LCP Policy 1.3 and Municipal Code section 28.44.030.) To avoid any confusion, the Emprise Trust owns only one other parcel in the City, which is located inland of the coastal zone.

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CITY OF SANTA BARBARA
PLANNING DIVISION

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Staff, as well as through Single Family Design Board (SFDB) review and preliminary design approval (May 2, 2016). As further reflected in your Staff's responses, public and public agency comments on the project and draft MND represent argument, speculation, and erroneous interpretations masquerading as "fact", but no substantial evidence - facts, or expert opinion based on facts, or analysis pursuant to the controlling adopted conservation and development standards - of any potentially significant project effects on the environment, or of the environment (e.g., geology) on the project. As you know, controversy, unsupported by substantial evidence, does not require preparation of an EIR. (CEQA (PRC) section 21082.2(b).) Thus, pursuant to CEQA and as your Staff has concluded, the project qualifies for a MND, and does not require preparation of an EIR.

This letter is limited to three items in the MND that we respectfully submit require resolution to avoid the MND's inadvertently (a) resulting in a "taking" of our Client's property, (b) adding clarifying mitigation measures which lack any "nexus" or "rough proportionality," or which exceed adopted standards in the Municipal Code, and therefore would render the project infeasible, and (c) introducing factual-technical errors with regard to the project and site.

We hope to resolve these issues with Staff prior to the hearing. If that is not possible, then we are requesting that the Planning Commission (1) factually clarify Part 5 of the MND Initial Study (Geology), relating to the location of the coastal bluff on the Parcel, in light of the actual physical conditions ("environment") and the controlling coastal bluff determination criteria, (2) clarify the revised "recommended mitigation measures" in the MND, and (3) assure the correction of technical-factual errors in the MND. Further, on that basis, we respectfully ask that your Commission to adopt the recommended Final MND regarding the project. We will transmit our recommended specific revisions, which have been previously addressed in the MND record, to staff for its consideration prior to the hearing.

1. Project Description. In response to questions and comments by the Commission, Staff, and the SFDB, the proposed house has been reduced in size to 2,789 ft² (with a 571 ft² attached garage). It has further been stepped to decrease its bulk, designed with fewer and smaller windows (with non-reflective glass) on the east and west sides, and provided with additional screening vegetation. (ABDS, Plg. Com. Hrg. Project Plan Set, June, 2016.) The roofline (below the elevation of the existing base of the driveway) and position of the proposed house in its setting (adjacent houses,

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tree lines, topography), as seen from the lower beach and Santa Barbara Channel, has been both photo-simulated (ABDS Sheet G.04, June, 2016) and is shown in scaled (1:50) section view (profile) up to one mile offshore, looking landward. (ABDS, Extended Site Sections, Sheet A0.04-B, June, 2016. ABDS will deliver electronic and 12 printed copies of these Sections to Ms. Kennedy on Tuesday morning.) No deed restriction burdens the Parcel. (Fidelity National Title Insurance Company, Preliminary Title Report, 1925 ECDLL, 2015.

In coordination with Staff, the on-site stormwater management water storage tank (WST) 3 has been redesigned to consist of two separate tanks, with provision that water in the seasonal lap pool component will be beneficially reused on site and not be discharged under any circumstance to the City storm drain. Other retained stormwater will continue to be available to beneficial reuse by the City Fire Department and Public Works Department via a dry stand pipe at the head of the driveway, adjacent to ECDLL. (ABDS, Sheets A0.03 and A0.04, June, 2016.)

The temporary construction access and storage easement area on 1921 ECDLL has been clarified to maintain the existing screening mature horticultural vegetation along the existing retaining walls/property line fences to the north and east (as well as the other tall vegetation to the South). Horticultural vegetation within the area will be replanted in place and kind following completion of construction. Earthen material from the temporary ramp at the base of the 1921 ECDLL driveway will be reused on 1925 ECDLL as part of balanced on-site (landscape restoration) grading. (ABDS, Sheet A0.01, June, 2016.) Construction equipment travel along the 1921 ECDLL driveway (to which 1919 ECDLL has a non-exclusive ingress/egress easement) and along the joint (reciprocal easement) 1925-1927 ECDLL driveway will be coordinated with the neighbors; the easement granted by the Luz Trust, owner of 1921 ECDLL, requires repair of any damage to that driveway, and the project proposes new pavement on 1925 ECDLL, also in coordination with the neighbors at 1927 ECDLL.

2. Coastal Bluff Location. It is important to understand that geologist/geotechnical engineer-surveyors at Cotton, Shires & Associates have conducted the only topographical survey of the coastal bluff location and its upper termination (bluff edge) on the Parcel and the adjacent area, pursuant to controlling criteria in Section 13577(h) of the Coastal Commission's adopted regulations (Tit. 14, Cal. Code Regs.) and the Coastal Commission's adopted "Guidelines for the Geologic Stability of

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Blufftop Development," which have been incorporated in the City's certified LCP. (CSA, 2012; verified, 2015.) Applying that criteria, the surveyed coastal bluff edge location on the Parcel is between 48-52 feet MLLW. It is, moreover, on the trend line of the coastal bluff established on substantial evidence by the Coastal Commission when it approved and issued CDP 4-84-17 (Doolittle) on the basis of the clear distinction between the coastal bluff (and its bluff edge) and the headscarp of the City co-activated 1978 ECDLL landslide. The proposed residence is set back a minimum of 169 feet from the surveyed coastal bluff edge. (ABDS, Sheet A0.03, June, 2016; CSA, 2012, verified, 2015.)

Coastal Commission staff and City staff (simply uncritically accepting the Commission staff's view) have suggested instead that the coastal bluff edge on the Parcel is at "127 feet" (without any datum that would specify the location). Not only would such a determination render the property unbuildable, but, importantly, it is unsupported by any topographic survey performed pursuant to the controlling criteria, any contemporaneous field notes from the January, 2013 site visit (in which CSA and other Emprise Trust project team members participated), or any written expert analysis of existing coastal bluff conditions in light of the controlling criteria. (*See*, letter, dated May 2, 2016, from new coastal staff analyst Sinkula to City Staff.) As City staff revealed shortly after the 2013 site visit, the Coastal Commission staff/City staff suggestion of a coastal bluff at 127 feet on the parcel is based on "belief".² The staff suggestion of such an elevated coastal bluff on the Parcel simply does not meet the standard for substantial evidence pursuant to CEQA, which includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (PRC § 21082.2.) "Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence." (*Id.*)

In its comments on the MND, the Coastal Commission's staff intentionally glosses over or misstates the criteria for determining the location of the coastal bluff edge. Section 13577(h)(2) of the Commission's regulations states: "In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser

² City of Santa Barbara Planning Division, Pre-Application Review Team Comments, 1925 El Camino de la Luz, MST2013-00240, APN: 45-100-024, August 9, 2013, at 1: "...both City and Coastal Commission Staff believe that the bluff edge is located further inland (at approximately the 127-foot contour)."

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shall be taken to be the cliff edge." The regulation does not define the term "step-like feature at the top of the cliff face," but the Coastal Commission's Guidelines for the "Geologic Stability of Blufftop Development," which are incorporated in the City's LCP, exemplifies the geometry of such a feature. Those Guidelines require that any step-like feature have a minimum vertical height of ten (10) feet. (Guidelines, p. 2.) This is never addressed by the Coastal Commission's staff or City Staff. It is, however, uncontroverted that the coastal bluff at 1925 ECDLL does not extend landward (upslope) through rounding associated with marine erosion, stepping, or the presence of a nearby minimum 10 feet vertical height escarpment. (CSA, 2012, 2015; GeoSoils, 2012, 2015; Scepan, 2012; D&A, 2015; Monk and Kaufmann, 2015.) In other words, there is no evidence of a step-like feature, as defined in the controlling criteria, on the Parcel.

Further, Section 13577(h)(2) of the Commission's regulations also provides that "[f]ive hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations." Even if the remaining landslide headscarp were somehow deemed to be a step-like feature or upper riser (which the Coastal Commission in CDP 4-84-17 determined it is not), the headscarp east of 1927 ECDLL has a length substantially less than the minimum 500 feet required by the coastal bluff regulation – 297 feet long when measured on the upper headscarp line, or 103 feet long when measured in an east-west horizontal dimension (CSA, 2012).

In response to the MND, the Coastal Commission staff analyst's May 2, 2016 email asserts that the five hundred foot requirement applies only in a limited instance – only to determine the intersection of a seaward-facing and canyon/perpendicular bluff. As support, the analyst provides a partial and incomplete quote of Section 13577(h) and a graphic. The plain construction of the 500 foot requirement (as well as the trend line illustration in the graphic) demonstrates that the minimum 500 feet length necessarily applies to each of the coastal bluff determination criteria set forth in section 13577(h). Section 13577(h)(2) provides in relevant part (we have underscored the only portion selectively quoted by the Commission analyst):

"Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or

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less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at to the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations. (Again, the underscored part is the only portion quoted by Commission staff.)

Viewing the regulation as whole, Section 13577(h)(2) clearly sets forth 3 coastal bluff determination criteria: (1) "where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes," (2) "where there is a steplike feature at to the top of the cliff face," and (3) where a coastal bluff transitions to a canyon bluff. By its plain terms, the 500 foot requirement applies to all three "determinations." If there were no such requirement, then almost anything in the 1,100-mile long coastal zone would qualify as a "coastal bluff," such as a 10-foot long rounded away feature or a 50-foot long steplike feature. And, the effort to define when a coastal bluff intersects a canyon bluff would have no meaning if the supposed bluff feature were only 100 feet long (i.e., less than 500 feet). In other words, it would not qualify as a coastal bluff.

Still further, Coastal Act section 30625 states that "decisions of the Commission ... shall guide local governments . . . in their future actions" under the Coastal Act. Here, the coastal bluff edge surveyed by CSA is congruent with the coastal bluff trend line established by the Coastal Commission in its Doolittle decision (CDP 4-84-17). In that decision, the Coastal Commission clearly differentiated between the coastal bluff/bluff edge and the headscarp in CDP 4-84-17 (on which the City relied in issuing Doolittle the required building/grading permit for 16,900 yd³ of grading as well as house caisson, tiebacks, and other stormwater management construction) on the four adjacent parcels to the west of 1925 ECDLL. That not only conforms to the controlling criteria and the trend line illustration provided by the Coastal Commission analyst, but the Coastal Commission specifically found in Doolittle that project (landward of finished elevations ~50 feet MLLW) to be located on the blufftop, to have no significant effects on the environment, and to be consistent both with certified City Local Coastal Plan Policy 8.2 and Coastal Act Policy 30253.

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Finally, the Coastal Commission staff's erroneous coastal bluff edge at "127 feet" on the parcel is, depending on the datum, on the locally runoff eroded City-constructed (1978) earthen buttress of the Mesa Trunk Line Sewer trench and pipe, the relict concrete pavement edge and inches-thin overlying artificial fill at the base of the 1925 ECDLL driveway, turnaround, and former house entry, or in voids (air space) below that concrete pavement. These existing conditions simply do not, and cannot, constitute a coastal bluff edge pursuant to the controlling criteria, which the Emprise Trust has previously addressed in our March 30, 2016 letter to Staff on the MND.

3. Supplemental Project Site Analysis. In response to City staff inquiries, CSA (2015, 2016) has further analyzed and described the enhanced slope Factor of Safety (under static and seismic conditions) provided through the proposed project in-bedrock shear-pins, tiebacks, and comprehensive storm/ground water management system. These substantial Factor of Safety improvements provide not only the stable basis for the proposed house and appurtenances, consistent with City Municipal Code environmental construction requirements, but, importantly, also greatly benefit the stability of City infrastructure, the downslope landform affected by the 1978 ECDLL landslide, and adjacent upslope parcels with existing developed uses. In response to Planning Commission, Single Family Design Board, and City staff inquiries, ABDS (June, 2016) has reduced the bulk, tiered height, and added potential associated visual effects of the proposed house through a series of incorporated mitigations. As a result, Staff correctly concludes that the house will not have a significant adverse impact on public views from the low tide beach and Santa Barbara Channel, looking landward, or from ECDLL, looking toward the Channel and Santa Cruz Island. No beach or nearshore white water views exist under any conditions from ECDLL (or any other public view origination point) across the Parcel.

4. Project Compliance. Because the factual, criteria-based, and coastal program-consistent surveyed coastal bluff/edge location on the Parcel is at elevations 48-52 feet MLLW, and not at 127 feet (in any datum), the location of the proposed house a minimum of 169 feet landward of the coastal bluff edge is fully consistent with the coastal bluff protection requirement of City Local Coastal Plan Policy 8.2. Reliance on the Coastal Act takings avoidance provision (PRC section 30010), which the Coastal Commission has utilized in numerous other CDP regulatory actions, is therefore unnecessary. Similarly, the project by design, on site-specific analysis in the project technical studies, is fully consistent with the requirement of the Coastal

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Act, incorporated by reference in the City Local Coastal Plan, that “new development shall ... minimize risk to life and property in areas of high geologic, flood, and fire hazard (and) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural conditions along bluffs and cliffs.” (PRC section 30253; CSA, 2012, 201, 2016; GeoSoils, 2012, 2015; D&A, Project Consistency Analysis, 2013, Project Consistency/Constraints Analysis, 2015.³)

Prior to completion of the draft MND, the Emprise Trust concurred in City staff’s proposed project mitigation measures, and now also concurs in staff’s additional/clarified suggested mitigation measures RM B-2 (biology, subject to typographical correction), RM N-5 (construction equipment sound control specifications), RM N-6 (Neighbor Notification, with the clarification that “project area” means the project site), RM V-1, Lighting Design, and RM WQH-1, Drainage/Stormwater Management. The Emprise Trust also supports archeological resource protection, which the MND references as a prospective project condition (although archeological surface or near-surface resources are unlikely to occur in the landslide-impacted terrain), but without identifying an ascertainable specific proposed mitigation measure. However, the staff-recommended Final MND contains several substantively revised “recommended mitigation measures” for which the MND identifies no threshold unmitigated potentially significant environmental effect, that exceed adopted Municipal Code standards, and that are likely infeasible and could prevent project implementation, resulting in the City “taking” the Parcel. Specifically:

a) **Construction Start Time.** The Municipal Code establishes the start of work on weekdays at 7 am. (SBMC section 9.16.040.) RM N-4 (MND page 35/59), however, proposes to delay the start of work on weekdays from 7 am to 8:30 am, with a resultant 84 day (4 construction month) increase in the construction period, likely conflict with construction period limitations, and associated delays, requirements for extended construction easement time/use on 1921 ECDLL, and

³ The “protective devices” that could alter natural conditions along bluffs and cliffs” referenced in PRC section 30253 encompass structures on the terrestrial environment, whereas the revetments, breakwaters, seawalls, etc. (collectively, “shoreline [protective] structures”) encompass construction in and immediately adjacent to nearshore marine (littoral) environment.

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increased costs. Construction is already generally precluded by the Municipal Code (Title 9, Noise Ordinance) on weekends, holidays, and certain subsequent days, and the construction easement area is already buffered along its north and east sides with mature tall horticultural vegetation and retaining walls, with continuous closed fencing on top of them. Further, the side yards at 1909 and 1919 ECDLL result in the houses some 30-140 feet and 45-170 feet, respectively, from the temporary construction access and storage easement area (i.e., no construction equipment will be operating or be parked beneath, or next to, any room, window, or patio at either house. As proposed, the project complies with the adopted Municipal Code. This changed requirement, however, would amount to a de facto amendment of the Code, would treat this application different from other single-family residential applications, and is unsupported by any evidence.

(b) Stationary Construction Equipment. RM N-7 (MND page 35/59) would require that undefined "stationary construction equipment" be shielded (STC rating 25) to prevent noise generation at the "property boundary" from exceeding 50 dBA. The mobile drilling rig required for bore hole excavation to facilitate construction of the shear-pins and house foundation caissons necessary to meet Factor of Safety standards cannot feasibly be retrofitted to meet that 50 dBA standard, which exceeds the adopted Municipal Code noise standard. Consequently, imposition of this recommended noise standard on the drilling rig would preclude implementation of the project, resulting in a "taking" of the Parcel. To address this concern, stationary equipment (e.g., compressor/s, generator/s) can be located and shielded to meet City standards, and the applicant would accept such a requirement.

(c) Video Crack Survey. RM-8 (MND page 35/59) would require the Emprise Trust to notify neighbors of pre- and post-construction video recording of existing fractures (cracks) in "buildings and other structures" within 300 feet of the project site, and additionally to compensate "any neighbors for repair of cracks caused by the construction process." This particular mitigation has no basis in any identified potentially significant project adverse environmental effect. Further, it is vague, extremely intrusive of the neighbors' house interiors, foundations, and other structures, and likely incapable of pre-construction implementation. It also would require the Emprise Trust to be liable, without limit or specification of civil procedure, for repair of cracks asserted to be caused by construction activities. While we emphasize that there is no evidence that this is a problem with the proposed project, this mitigation measure could put the City in the middle of neighbor

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disputes that are more civil, than regulatory, in nature. The project already proposes new pavement of the widened 1925 ECDLL driveway (in coordination with 1927 ECDLL), and the terms of the temporary construction easement on 1921 ECDLL provide for repair and restoration of any construction damage on that parcel (e.g., the driveway on which 1919 ECDLL holds a non-exclusive ingress/egress easement). Further, the project includes perimeter monitoring for vibrations with construction seismometers, with provision for immediate implementation of construction vibration impact avoidance measures.

With respect to the above mitigation measures, we will be separately forwarding our requested revisions to City staff prior to the hearing.

5. Conclusion

The staff report correctly concludes that the record of the MND as a whole contains no substantial evidence that the project, with the incorporated and agreed-upon mitigations, has any potential for a significant direct, indirect, or cumulative effect on the environment, or of the environment on the project. Further, the project has no environmental effects that will, directly or indirectly, cause any substantial adverse effects on humans, and also does not have the potential to achieve short-term environmental goals to the detriment of long term environmental goals. The project, by careful and responsive design, is consistent with all applicable adopted City and Coastal Act mandatory standards of review and guidelines. (D&A, PCA, 2013; PC/CA, 2015.) The requested MND revisions, which have previously been addressed in the record or are of a technical nature, correct factual and typographical errors, clarify the project's impact avoidance and consistency with applicable environmental and coastal resource standards, and adequately specify the scope of mitigation measures in light of the applicable standards.

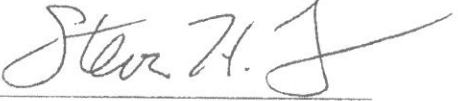
For all the foregoing reasons, the Emprise Trust respectfully requests that the Planning Commission adopt the recommended Final MND regarding the project. As noted, we will transmit our recommended specific revisions to the above-referenced mitigation measures, which have been previously addressed in the MND record, to staff for its consideration prior to the hearing.

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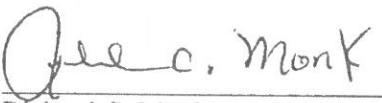
Thank you for your consideration, and we look forward to discussing the MND further with you at the July 7, 2016 hearing.

Very truly yours,

Richards, Watson & Gershon,
A Professional Corporation

By: 
Steven H. Kaufmann

Hollister & Brace,
A Professional Corporation

By: 
Richard C. Monk

cc: T. Felkay
Planning Commission Secretary
Ariel Pierre Calonne Esq., City Attorney
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Barbara R. Shelton, Environmental Analyst
Kathleen Kennedy, Associate Planner
Clay Aurell, AB Design Studio
Patrick Shires, Cotton, Shires & Associates
Norbert and Stevie Dall, Dall & Associates

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Note: All references herein are to the electronic pagination (pp. 1-59 of 59) of the City staff-proposed final Mitigated Negative Declaration in markup format (June 22, 2016, the "MND"), posted to the City's environmental documents web site at <http://www.santa-barbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=172746> (last accessed on February 2, 2016).

1. Project Description, Page 1/59, Lines 10-11: The MND representation that the project offers to dedicate "an open space easement on the undeveloped portion of the property, including areas of native species lemonade berry vegetation" is factually incorrect and unsupported by any substantial evidence in the MND record as a whole. The proposed open space easement (ABDS, Site Plan, Sheet A0.03, June, 2016), consists of two areas: (a) the surveyed coastal bluff, between elevations 10-52 feet MLLW (CSA, 2012; verified, 2015), and (b) the matured contiguous monoculture of horticultural lemonade berry shrubs, which the City co-activated 1978 ECDLL landslide repositioned from (primarily) 1927 ECDLL to 1925 ECDLL, and post-landslide grading by the City (1978) and Doolittle (1984) further repositioned and concentrated, including through hydromodification, on 1925 ECDLL. (CSA, 2012, 2015; WRA, 2012, 2015; D&A, 2013, 2015.) Such grading, hydromodification, and landscaping constitutes development of the parcel, which is located in the California coastal zone. (See, PRC section 30106; SBMC section 22.44.040.H; CDP 4-84-17 (Doolittle).) The MND record as a whole contains no substantial evidence whatsoever that the extant lemonade berry shrubs on 1925 ECDLL consist of "native species lemonade berry vegetation". The Emprise Trust thereon requests that the reference be clarified accordingly.

2. Project Description, Page 1/59, Lines 12-13: The MND representation that the project offers to dedicate "an air space public view corridor easement from El Camino de la Luz over the top of the residence toward the Santa Barbara Channel and Santa Cruz Island" is factually incomplete, in that the proposed air space open space easement extends across the entire parcel, and is not limited to the air space above the residence. (ABDS, Site Plan, Sheet A0.03, and Site Sections, Sheet A0.04, June, 2016.) The MND record as a whole contains no substantial evidence to support the incomplete representation in the MND. The Emprise Trust thereon requests that the reference be clarified accordingly.

3. Attachments: Mitigation Monitoring and Reporting Program ("MMRP"), 02-04-16, Revised June 22, 2016, Page 1/59, Line 2: This MMRP, required by PRC section 21081.6, is listed as an attachment to the MND, but omitted from the MND posted by the City to its environmental documents web site. The Emprise Trust requests City staff to attach the revised MMRP to the MND posted to the City web site, and produce a copy thereof to the Emprise Trust.

4. Initial Study/Environmental Checklist, Page 3/59, Paragraph 3, Lines 2-3: The

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Emprise Trust will provide responses to City staff's Exhibit H, responses to comments on the Draft MND, under separate cover and, as necessary, at the July 7, 2016 public hearing on the MND.

5. Project Address/Location Map, Page 3/59: The project location map *inter alia* depicts the parcel, marked in yellow, in relation to La Mesa Park, marked in green. Unchallenged substantial evidence in the MND record as a whole indicates that, as a result of intervening houses and mature trees and other horticultural vegetation, the parcel, the proposed residential reuse project development envelope cannot be seen from La Mesa Park.

6. Project Description, Exhibit D1 Photo-Documentation and Project Visual Simulation, referenced on Page 4/59, Paragraph 1, Line 1: In addition to the complete Project Plan Set (MND Exhibit A, ABDS, June, 2016, 16 sheets) and the Site Photo-Documentation/Project Visual Simulation (MND Exhibit D1, ABDS, June, 2016), ABDS (July 5, 2016) in addition submitted Sheet A0.04B, Extended Site Sections (1:50 scale), which locate the stepped, reduced size, and further terrain-harmonized house in its setting, relative to background adjacent houses and trees, as seen from specified view origination points on the lower beach plane and up to one mile offshore the Mean High Tide Line on the Santa Barbara Channel.

7. Project Description, Page 4/59, Paragraph 3, Line 1: The correct (571 ft²) garage size conforms to the ABDS DART submittal project plans (September, 2015); the former 444 ft² garage size was inadvertently carried forward on the 2015 project plan set title sheet from the 2013 ABDS project plan set. Please clarify the MND accordingly.

8. Project Description, Page 4/59, Paragraph 3, Lines 3-7: The in parts erroneous description of the vegetation species and proposed offers to dedicate specified open space and air space easements repeat the errors identified in comments 1 and 2, above. The Emprise Trust requests that the references be clarified to conform to those requested in these two prior comments.

9. Project Description, Page 4/59, Paragraph 4, Line 1: In addition to the revised project plans dated April 25, 2016, prepared in response to Planning Commissioner, Single Family Design Board, and City staff comments, ABDS at City staff's request has produced the conformed set of project plans for the Planning Commission Hearing on July 7, 2016.

10. Project Description-Site Preparation and Construction Process, Page 4/59, Paragraph 6, Lines 3-4: Substantial evidence in the MND record indicates that the project proposes slope stabilization of the site to greater than the SBMC Factors of Safety 1.5 (static) and 1.1 (seismic) through the poured-in-place installation of shear-

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pins (to a minimum depth of 40 feet in bedrock), tiebacks (lower shear pin row), and comprehensive surface/subsurface water management, with beneficial effects on adjacent areas that include the City MTLs and developed private parcels. (CSA, 2012, 2015, 2016; C. L. Grant, 2013; ABDS, Project Plan Set, 2016.) The proposed deep caisson and grade beam foundation of the house (CSA, 2012, 2015, 2016; C. L. Grant, 2013; ABDS, Project Plan Set, 2016) additionally contributes to the stability of the site and area. (CSA, 2015.) Please clarify the MND accordingly.

11. Project Description-Site Preparation and Construction Process, Page 4/59, Paragraph 6, Line 6: To meet the City's minimum 16-foot driveway width, the project proposes to augment the existing driveway pavement on 1925 ECDLL by an addition _____ ft², rather than 540 ft². (ABDS, Site Plan, Sheet A0.03, June, 2016.) Please clarify the MND accordingly.

12. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 1, Lines 1-2: Substantial evidence in the MND record as a whole indicates that the project parcel's south property line is along the Mean High Tide Line of the Santa Barbara Channel of the Pacific Ocean, a location that provides for the long term protection of the parcel against direct attack by open Pacific Ocean waves, and hence the persistent long term location of the coastal bluff at this location. (GeoSoils, 2012.) The MND record as a whole contains no substantial evidence to support staff's contention that "the property ... incorporates a coastal sea cliff and bluff" (emphasis added). Rather, the only topographic survey of the site (conducted pursuant to the controlling criteria at 14 CCR 13577(h), informed by the Geologic Stability of Blufftop Development Guideline, and congruent with Coastal Commission's established coastal bluff trend line based on its differentiation of the coastal bluff and the 1978 ECDLL landslide (CDP 4-84-17, Doolittle)) identifies the coastal bluff on the parcel to extent between 10 feet and 52 feet MLLW. (CSA, 2012; verified, 2015.) There is no substantial evidence in the MND that locates a "coastal sea cliff" on the parcel pursuant to the controlling criteria, and none exists. Please clarify the MND accordingly.

13. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 3, Line 5: The reference to "coast" in this context is unnecessarily vague and unsupported by substantial evidence in the MND record as a whole. The correct reference is to the "south property line along the Mean High Tide Line of the Santa Barbara Channel." (GeoSoils, 2012.) Please clarify the MND accordingly.

14. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 3, Lines 6-7: The substantial evidence in the MND record as a whole locates the proposed residence between 97.6 feet (not 80 feet) MLLW and 129.5 feet MLLW, a minimum of 169 feet upslope from the surveyed coastal bluff edge (upper termination, not the "lower cliff location". (ABDS, Site Sections, Sheet A0.04, June,

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2016; CSA, 2012, verified 2015; ABDS, Site Plan, Sheet A0.03, June, 2016.) There is no substantial evidence in the MND record as a whole to support staff's contention that the project parcel contains a "lower cliff". Please clarify the MND accordingly.

15. Environmental Setting-Summary of Existing Site Characteristics, Page 5/59, Paragraph 4, Lines 1-3: The characterization of the flora on the "undeveloped slope below the previous and proposed development location ... (with) native species vegetation in the coastal sage scrub (0.14 acre, predominately lemonade berry ... plant communit[y])" is (a) unsupported by any evidence in the MND record as a whole that the matured repositioned horticultural lemonade berry shrubs on 1925 ECDLL constitute a native species, and (b) contrary to the site-specific biological analysis, which identified the contiguous lemonade berry vegetation as a monoculture that lacked community structure (as the MND itself notes at page X/59). (WRA, 2012, 2015. Please clarify the MND accordingly.

16. Environmental Setting-Summary of Existing Site Characteristics Page 5/59, Paragraph 5, Lines 2-3: The MND record as a whole contains no substantial evidence to support staff's contention of a "lower bluff tier" (emphasis added), and in fact, none exists on the parcel. (CSA, 2012; verified, 2015; GeoSoils, 2012, 2015; Scepan, 2012; D&A, 2015; Monk and Kaufman, 2015.) The correct reference in this context, regarding potential tsunami runup, is to "the back beach and lower coastal bluff face." (GeoSoils, 2012.) Please clarify the MND accordingly.

17. Environmental Setting-Summary of Existing Site Characteristics, Page 5/59, Paragraph 8, Lines 1-5: Rather than generally characterizing the site "as subject to unstable slopes", the substantial evidence in the MND record based on site-specific geological and geotechnical investigation indicates varying slope Factors of Safety (below FS 1.5/1.1) in the areas of the parcel affected by the City co-activated 1978 ECDLL landslide and subsequent cut and fill grading, hydromodification, and repositioning of horticultural lemonade berry vegetation by the City (1978) and Doolittle (1984). (CSA, 2012, 2015, 2016; D&A, 2015; WRA, 2012.) There is no substantial evidence in the MND record as a whole that the 1978 ECDLL landslide – rather than "a 1978 landslide" – "swept away" the previous house on 1925 ECDLL. In fact, the house at 1925 ECDLL, which was constructed on shallow slab and perimeter foundations in a notched (cut and filled) split-level building pad pursuant to a City-approved/issued combined building, grading, and drainage permit, failed when saturation of the dip slope oxidized Monterey Formation and overlying soil/artificial fill by water discharged from upgradient City infrastructure between 2001 ECDLL and 1903 ECDLL reactivated a pre-historic US topographical mapping landslide on these parcels. (CSA, 2012; City Permit F3833 (1955); D&A, 2013, 2015.) Please clarify the MND accordingly.

18. Environmental Setting-Summary of Existing Site Characteristics, Page 5/59,

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Paragraph 9. Line 2: The characterization that "some landslide debris remains on the site" is vague, whereas substantial evidence in the MND record characterizes it as landslide structural debris buried by the City (1978). (CSA, 2012, 2015; D&A, 2013, 2015.) Please clarify the MND accordingly.

19. Existing Land Use, Page 5/59, Paragraph 12, Lines 2-5: Substantial evidence in the MND record indicates that, in addition to the development listed, the parcel is also developed with the City's (1978) Mesa Trunk Line Sewer earthen buttress, drainage facilities initially installed by the City (1978) that serve 1927 ECDLL and 1929 ECDLL, as well as part of the joint 1925-1927 ECDLL driveway, relict concrete house entry and carport turn around pavement with a thin artificial fill layer at elevation 130 feet MLLW (near elevation 127 feet MSL), matured City- (1978) and Doolittle- (1984) planted (repositioned) horticultural lemonade berry shrubs, and other horticultural lemonade berry shrubs planted by unknown third parties for erosion control. (CSA, 2012, 2015; D&A, 2013, 2015; WRA, 2012, 2015.) Please clarify the MND accordingly.

29. Existing Land Use, Page 5/59, Paragraph 12, Lines 4-5: The characterization in the MND of the existing MTLS "wastewater line" as crossing the site "above" the proposed residence location constitutes overstatement. Substantial evidence in the MND indicates that the invert elevation of the MTLS pipe, at/near 111 feet Santa Barbara Datum (minus 6 feet MSL),

30. Existing Land Use, Page 5/59, Paragraph 12, Lines 6-7: The characterization in the MND of a homeless encampment on the "lower portion of the site", "accessed from the coast", is vague and in part inaccurate. Substantial evidence in the MND record indicates that an unauthorized (trespass) recent homeless encampment in the contiguous horticultural lemonade berry vegetation in the biological Study Area has been accessed from the beach along the surveyed coastal bluff face, including on 1925 ECDLL. (D&A, 2015; WRA, 2012, 2015.) Please clarify the MND accordingly.

31. Existing Land Use, Page 6/59, Paragraph 1, Lines 8-9: The characterization in the MND of the reason for the loss of the pre-1978 ECDLL landslide coastal bluff access path on 1925 ECDLL (and adjacent 1927 ECDLL) between the coastal bluff top and the beach is incomplete. Substantial evidence in the MND record indicates that this path was destroyed in part by the southerly distension of earthen material up to 83 feet across the beach plane by the 1978 ECDLL landslide, and subsequently eroded by post-1978 ECDLL landslide marine erosion of this material. (GeoSoils, 2012; Scean, 2012; D&A, 2013, 2015.) Please clarify the MND accordingly.

32. Neighboring Land Uses and Characteristics, Page 6/59, Paragraph 3, Lines 1-2: The characterization in the MND of "vegetated" coastal bluffs "sloping down to the beach and ocean" south of the line of residences on the seaward side of ECDLL is in

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parts vague and incorrect. Substantial evidence in the MND record as a whole indicates (a) that the coastal bluff on the four parcels immediately west of 1925 ECDLL is located along (near) the 50 feet MLLW trend line (CDP 4-84-17, Doolittle; CSA, 2012; D&A, 2013, 2015; Monk and Kaufmann, 2015), and thus does not slope down from the line of residences; (b) while some coastal bluff segments (subareas) to the west and east of 1925 ECDLL (in WRA's Study Area between Oliver Road and the Lighthouse Creek drainage) are vegetated, many others are unvegetated (GeoSoils, 2012, 2015; CSA, 2012; WRA, 2012, 2015; ABDS, Photo-Documentation Sheet G.04 Key Plan and Frames 6 and 9-12, June, 2016); and (c) whereas the base of the coastal bluff west and east of 1925 ECDLL is located at the rear (landward edge) of the beach plane, nowhere within the Study area does the coastal bluff slope under current environmental conditions down to the landward edge of the Santa Barbara Channel of the Pacific Ocean along the MHTL. Please clarify the MND accordingly.

33. Property Characteristics-Slope, Page 6/59: The substantial evidence in the MND record indicates that the current slope gradients on the parcel are the result of (a) the City co-activated 1978 ECDLL landslide (below elevation 130 feet MLLW); (b) subsequent grading and hydromodification by the City (1978) and Doolittle (1984) variously between elevations 50 and 130 feet MLLW; (c) rilling erosion of the City-constructed (1978) MTLs earthen buttress; (d) marine, aeolian, and chemical weathering erosion of the seaward-distended coastal bluff following the 1978 ECDLL landslide, and (e) fill/excavation grading of the existing driveway, house entry, and carport turnaround areas by the 1955-1956 developer of the previous house at 1925 ECDLL. Please clarify the MND accordingly.

34. Property Characteristics-Surrounding Zones, South, Page 6/59: The MND indicates that no zoning is available ("N/A") to the south of the parcel, although the current (6/25/2013) City Zoning Map posted to the City's web site (at: <http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=17450>) depicts an unclassified white polygon between the R-3 zoning on part of the parcel (that apparently does not extend to include the area of the surveyed coastal bluff [CSA, 2012; verified, 2015) and an unidentified seaward boundary line (that apparently is not congruent with the State's surveyed MHTL in this area). The unclassified white polygon in the area of the parcel is substantially similar, but not identical, to the Recreation-Open Space: Beach land use designation depicted on the current (5/2/2014) City Coastal Zone Land Use Designations Map (at: <http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=40353>). The City corporate limits in the Santa Barbara Channel seaward of the parcel extend to 3 nautical miles offshore the MHTL, and thus this area is within the required City LCP jurisdictional area. (PRC section 30500(a). ["Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction.]) Please clarify the MND accordingly.

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35. Plans and Policy Discussion, Page 6/59, Paragraph 7, Lines 2-4: Substantial evidence in the MND record indicates that the applicable Coastal Act conservation and development standards of review for the project consist of PRC sections 30210-30224 and 30253, rather than the entire Coastal Act (Chapter 3). (D&A, 2013, 2015.) Please clarify the MND accordingly.

36. Coastal Policies-Visual and Biological Resources, Page 7/59, Paragraph 2, Line 10: The MND record contains no substantial evidence that "two-thirds" of the parcel is, or would on project completion be or remain, in "native vegetation". Rather, the site-specific biological analysis indicates that native vegetation occurs on parts of the surveyed coastal bluff and on the immediately adjacent coastal bluff top near the 1925-1927 ECDLL property line. (WRA, 2012, 2015.) Please clarify the MND accordingly.

37. Coastal Policies-Coastal Hazards, Page 7/59, Paragraph 3, Line 5: PRC section 30253 requires the proposed project to have no significant adverse impact on "natural landforms along bluffs and cliffs", rather than "coastal landform resources." (DA, 2013, 2015.) Please clarify the MND accordingly.

38. Coastal Policies-Coastal Hazards, Page 7/59, Paragraph 4, Lines 1-7: There is no substantial evidence in the MND record as a whole to support staff's speculation about a potential coastal bluff edge at (an unspecified datum) 127 foot elevation. In fact, such elevation on the parcel consists of concrete decking (in MLLW), voids (interstices below the concrete decking) and the rilling-eroded City (1978) constructed earthen buttress for the MTLS trench and pipe (MSL and Santa Barbara Datum), which pursuant to the controlling criteria geomorphological and dimensional criteria do not – and cannot – constitute an "upper bluff edge determination". (CSA, 2012 [see, Figure 2, Topographic Section A-A'], 2015, 2016; GeoSoils, 2015 [see, Exhibit D]; D&A, 2013, 2015; Monk and Kaufmann, 2015.) Moreover, the controlling criteria at 14 CCR 13577(h) and in the Geologic Stability of Blufftop Development Guideline, both incorporated by the City in its General Plan and LCP, respectively, set forth specific geomorphological and dimensional standards for determination of the coastal bluff edge location through careful on site- and area-specific field work, rather than on "belief", as City staff described its and Coastal Commission staff's unverifiable and inapplicable methodology. (PRT Letter, 2013.) Coastal Commission staff's emailed further characterization of its methodology simply corroborates that it can produce none of the required geomorphological or dimensional technical analysis and mapping to support a coastal bluff edge at 127 feet elevation (under any datum) on the parcel. (Email from M. Sinkula, Coastal Program Analyst I, to L. Kennedy, May 2, 2016, 2 pp.) In direct contrast, CSA (2012, 2015) surveyed, mapped, and verified the coastal bluff edge on the parcel based on the controlling criteria (CSA, 2012, 2015, 2016), and the 48-52 feet MLLW elevation of that bluff line is congruent with the coastal bluff trend line

COMMENTS AND REQUESTS FOR CLARIFICATION BY THE EMPRISE TRUST

established when the Coastal Commission differentiated between the coastal bluff/bluff edge and the 1978 ECDLL landslide headscarp on the four adjacent similarly situated parcels. (CDP 4-84-17, Doolittle; D&A, 2013, 2015; Monk and Kaufmann, 2015.) Pursuant to PRC section 30625(c), that Coastal Commission determination constitutes applicable guidance to the City for adjacent 1925 ECDLL, there is no (potential or actual) project inconsistency with certified LCP Policy 8.2 (as the Coastal Commission also found in Doolittle with regard to grading and construction on the four similarly situated adjacent parcels), and Paragraph 4, the related discussion in Paragraph 5, and in IS Part 5 are therefore surplusage that should be deleted from the MND. Please clarify the MND accordingly.

39. Note re California BIA v Bay Area AQMD, Page 8/59. The substantial evidence in the MND record indicates, on-site specific expert analysis, impact avoidance by project design, and on the basis of incorporated mitigation measures (including comprehensive monitoring and reporting), that there are no potentially significant adverse effects of the physical environment on the project. (CSA, 2012, 2015, 2016; GeoSoils, 2012, 2015; WRA, 2012, 2015; C. L. Grant, 2013; ABDS, Project Plan Set, June, 2016; D&A, 2013, 2015.) Please clarify the MND accordingly.

40. Visual Resources-Existing Setting, Page 9/58, Paragraph 2, Lines 7-8: There is no substantial evidence in the MND record that views of the "beach" are visible "from the adjacent street (ECDLL) in the distance across the site". Please clarify the MND accordingly.

41. Impacts to Scenic Views, Page 9/59, Paragraph 3, Lines 2-3: The project (as described in the DART Application [2015] and ABDS Site Plan and Section Plans [June, 2016] is located between the MHTL, 4.63 feet MLLW, and the southerly edge of the ECDLL right-of-way, near 140 feet MLLW. The proposed replacement house is located between elevations 97.5 feet MLLW (FFE) and 129.5 feet MLLW (roofline). Please clarify the MND accordingly.

42. View of project from beach and ocean, Pages 10-11/59: Supplemental ABDS Extended Site Sections Sheet A0.04-B, 1:50 scale (June, 2016) depicts the proposed stepped and reduced-size house in its setting, relative to adjacent existing houses on the urbanized West Mesa, trees, shrubs, and topography/terrain, as seen from the beach plane and up to one mile offshore in the Santa Barbara Channel, looking landward. The Extended Site Sections demonstrate that the house will not have a potentially significant direct or cumulative effect on visual quality, and that the house is consistent also in this regard with the visual protection standard of certified LCP Policy 9.1. Please clarify the MND accordingly.

43. Wildlife Corridors and Nesting Sites, Page 20/59: The MND record contains no

COMMENTS AND REQUESTS FOR CLARIFICATION BY THE EMPRISE TRUST

substantial evidence that the 1978 ECDLL landslide-impacted terrain between elevations 48-50 feet MLLW and the southerly edge of City (1978) post-landslide grading constitutes, or pursuant to the controlling coastal bluff determination criteria can constitute "lower portions of the coastal cliffs slopes in the project area (that) contain open space with native vegetation that provides a migratory corridor for birds and other wildlife species." (WRA, 2012, 2015.) Please clarify the MND accordingly.

44. Existing Site Conditions, Page 25/59, Paragraph 2, Line 5: There is no substantial evidence in the MND record that "the geologic landforms and soils on the property [parcel] are generally unstable". (See, CSA, 2012, 2015, 2016.) Please clarify the MND accordingly.

45. Project long term impacts, Page 25/59, Paragraph 3, Lines 2-3: There is no substantial evidence in the MND record that a "lower sea cliff" is located at 51 feet elevation. Rather, the surveyed coastal bluff, pursuant to the controlling determination criteria, extends between elevations 10 and 52 feet MLLW on the parcel, and there is no other escarpment on the parcel that constitutes a coastal bluff pursuant to any of the criteria in either 14 CCR 13577 or the Geologic Stability of Blufftop Development Guideline. (CSA, 2012, 2015; GeoSoils, 2015; D&A, 2013, 2015; Monk and Kaufmann, 2015.) Please clarify the MND accordingly.

46. Project long term impacts, Page 25/59, Paragraph 5, Lines 1-3: For completeness and accuracy, the first sentence should read: "However, the proposed development site does not meet the minimum stability factors of safety (1.5 static and 1.1 seismic) for development without slope stability measures per industry standards, incorporated into the certified LCP through the Geologic Stability of Blufftop Development Guideline, set forth in the Municipal Code (Title 22), and further incorporated into the General Plan (2014) by the Coastal Commission staff geologist's 2003 conference paper/ memorandum." Please clarify the MND accordingly.

47. Long term erosion, Page 26/59, Paragraph 2, Lines 6-11: The MND errs in its statement that "The analysis submitted by the applicant of long-term erosion at the lower bluff location at 51 feet in elevation does not factor in a setback from areas naturally meeting factor of safety criteria for slope stability purposes pursuant to the current Coastal Commission geologist analytic guidelines..." The CSA supplemental memorandum of January 5, 2016, in response to City staff inquiries, at pp. 1-6 specifically addresses this point (without acquiescing in staff's "lower bluff location" characterization), and demonstrates that the proposed house is adequately set back also from extant FS contours that meet the applicable standards. As a result of the City co-activated 1978 ECDLL landslide and subsequent grading, there are no extant "natural slope areas" on the parcel between elevations 48-50 feet and 130 feet MLLW. Please clarify the MND accordingly.

COMMENTS AND REQUESTS FOR CLARIFICATION BY THE EMPRISE TRUST

Prepared by Norbert H. Dall, Dall & Associates.

COMMENTS BY THE EMPRISE TRUST

City staff has proposed nine new or revised mitigation measures in the Draft final MND (pfMND, June 22, 2016). This memorandum addresses each of the new/revised mitigation measures. The Emprise Trust requests the opportunity to discuss the comments below with City staff prior to the Planning Commission hearing.

1. Recommended Mitigation Measure: RM B-2 Native Vegetation and Landscaping. (pfMND electronic page 21/59)

Final project plans approved by the Single Family Design Board and [omitted word/s] shall include project components to implement measures identified by project biologist reports for restoring native species vegetation following project construction and providing compatible landscaping. Final restoration and landscape plans will incorporate biologist-recommended measures for plant species, locations and timing for planting vegetation; local source for native plant species; erosion control, initial irrigation, and other establishment measures; performance criteria; and monitoring and demonstration of establishment success (two years for private open space and lemonade berry mitigation; five years for coastal bluff scrub) with final measures approved by the City prior to issuance of grading and building and occupancy permits.

1.1. In Line 1, after "Single Family Design Board and", one or more words are missing.

2. Recommended Standard Condition. (pfMND electronic pages 22-23/59)

There is no evidence of subsurface historical resources based on prior development activities and numerous technical site evaluations conducted on the property. The standard condition for procedures in the event of unanticipated discovery of important subsurface resources would be applied as a condition of project approval to assure that any resources discovered are evaluated and, as needed, mitigation applied such that no significant impact would result (see Exhibit C). ... Based on prior development activities and numerous technical site evaluations conducted on the property, there is no evidence that the site contains any subsurface human remains. Standard conditions of approval for the project would include required procedures per State regulations for the unanticipated discovery of human remains to assure that no significant impact would result (see Exhibit C). ... The area to be disturbed for the project has been previously disturbed by the prior residential development, landslide, and slope stabilization work. Based on prior development activities and numerous technical site evaluations conducted on the property, there is no evidence that the site contains any unique paleontological resources. The standard condition for procedures in the event of unanticipated discovery of important resources during project earthwork would be applied to this project to assure that any resources discovered are evaluated and, as needed, mitigation applied such that no significant impact would result (see Exhibit C).

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... The project site has been previously developed with a single-family home and has not been identified by local tribes as an important tribal cultural resource of religious or other cultural significance. The standard condition for procedures in the event of unanticipated discovery of subsurface resources during project earthwork would be applied to this project (see Exhibit C).

In relevant parts, Exhibit C, City Standard Conditions of Approval Applicable to Project, further provides as follows:

Visual Aesthetics

Design Review. The project, including public improvements, is subject to the review and approval of the Single Family Design Board (SFDB with project incorporation of Planning Commission land use conditions including:

- ☐ *Landscape plan and biological restoration measures, including protective measures implemented during construction; appropriate plant materials on bluffs and steep slopes; irrigation systems; landscape screening; screening for utility and foundation stability devices. (items to be further specified)*
- ☐ *Project exterior lighting plans consistent with SBMC provisions to avoid substantial effects to neighboring residents, habitats, and travel safety. (Exh. C, at 2.)*

Biological Resources

Fish and Wildlife Fee. The California Department of Fish and Wildlife fee shall be paid by the owner immediately upon project approval. A delay in payment will result in a delay in filing the required CEQA Notice of Determination.

Design Review. See item under Visual Resources above for approval of landscape and biological restoration plan, to include measures for establishment of new vegetation.

Biological Monitoring Contract. Submit a contract with a qualified biologist acceptable to City for specified biological monitoring for construction period and establishment of restoration and landscape vegetation and temporary irrigation. (Exh. C, at 2-3.)

2.1. Because there is no identified potentially significant effect of the project on cultural resources, there is no basis to require the proposed "standard" cultural resource condition above.

2.2. The Design Review "standard" condition, as stated, is unclear as to whether the

COMMENTS BY THE EMPRISE TRUST

SFDB is to (a) review and approve the Planning Commission's precedent action on the MND, regarding the project landscape plan, biological restoration, and exterior lighting, or (b) incorporate the Planning Commission's action on the MND with regard to these components into the SFDB decision. Please clarify.

2.3. Please clarify the requirement that "The CDFW fee shall be paid by the owner immediately upon project approval", specifically with regard to the terms (a) "immediately", and (b) "project approval" in relation to staff's proposed timing of City Planning Commission action on the CDP 60 days after action on the MND, with provision that it is appealable.

2.4. The Design Review "standard" biological resources design review condition, as stated, is also unclear as to what City-adopted standards, if any, the SFDB may require the project to implement (document) establishment of planted new vegetation, and whether the latter term includes establishment of proposed in-situ horticultural vegetation mitigation. Please clarify the relevant adopted standards for the SFDB biological resources design review standards.

2.5. Please (a) also provide us with, and include as part of the MND, a copy of the relevant adopted standards for City determination of "a qualified biologist acceptable to City", and (b) clarify whether this "standard" condition is precedent or subsequent to City issuance of (or action on) the CDP.

3. RM N-4, Construction Hours Limitations. (dfMND at electronic page 35/59)

*Requirements in mitigation measure N-1 are superseded by the following provisions: All construction activities shall be prohibited on weekends and shall be permitted only on weekdays between the hours of 8:30 a.m. and 4:00, with the exception of ten specified holidays when construction activities shall also be prohibited: New Year's Day (January 1st); Martin Luther King Jr Day (3rd Monday in January); President's Day (3rd Monday in February); Memorial Day (Last Monday in May); Independence Day (July 4th); Labor Day (1st Monday in September); Thanksgiving Day (4th Thursday in November); Day Following Thanksgiving Day (Friday following Thanksgiving); Christmas Day (December 25th). *When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday respectively shall be observed as a legal holiday.*

3.1. Given that the City has adopted generally applicable limitations on hours of construction (to erect, construct, demolish, excavate for, alter or repair any building or structure) in SBMC Section 9.16.040 (Noise Ordinance), which prohibit construction at night, between the hours of 8 pm and 7 am, please clarify what site-specific noise

COMMENTS BY THE EMPRISE TRUST

generation, ambient noise level, noise receptor standards, or data indicate a potentially significant adverse project (construction) effect that requires the staff-recommended limitation of construction to the specified weekdays between 8:30 am and 4 pm? Fundamentally, this staff-recommended mitigation measure requires a clear identification of any potentially significant adverse effects, before related and roughly proportional mitigation measures can be identified to reduce any such effects, if they were to occur, to below a level of significance.

3.2. Delay of the start of construction by even 1.5 hours on each of the available weekdays, e.g., from a 7 am to an 8:30 am construction starting time, would add more than four calendar months to the construction schedule, with associated potential conflicts with the long-term rainy season, seasonal biological avoidance periods or limitations, the availability of specialized equipment and workers, and resultant increased project costs. The staff-recommended delay in the starting construction hour is on its face unreasonable, given the considerable horizontal separation (30-145 feet) between the construction site and the nearest houses, the temporary construction equipment and material storage area and the nearest houses, and intervening retaining walls, continuous wooden fencing above them, and adjoining mature horticultural vegetation buffers. The Emprise Trust therefore requests that the available weekday construction hours be set to between 7:00 am and 4:00 pm.

4. RM N-5, Construction Equipment Sound Controls. (dfMND at electronic page 35/59)

Requirements in mitigation measure N-2 are further specified as follows: Equipment and vehicle mufflers and silencing devices shall be operating whenever equipment and vehicles are in use for the project. All diesel equipment shall be operated with closed engine doors. Unnecessary idling of internal combustion engines shall be prohibited during project construction processes. Whenever feasible, electrical power shall be used to run air compressors and similar power tools.

N-2: Construction Equipment Sound Control. All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

4.1. The Emprise Trust concurs with this additional recommended mitigation, based on the understanding that the referenced mufflers, silencing devices, and engine doors constitute those required by state or federal law, or regulations promulgated pursuant thereto. If this understanding in any manner differs from that of the City, please clarify the City's understanding of these referenced terms. Thank you.

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5. RM N-6, Neighbor Notification. (dfMND at electronic page 35/59)

Requirements in mitigation measure N-3 are augmented as follows: Additional notification of neighbors within 300 feet of the project area shall be provided one week prior to a changed construction schedule. A sign (with minimum font size of 0.5 inch) with the information required by mitigation measure N-1 shall be posted at the point of entry to the site immediately upon building permit issuance and upon any subsequent update notifications.

N-3: Neighborhood Notification Prior to Construction. At least twenty (20) days prior to commencement of the project construction process, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Project Environmental Coordinator (PEC) and Contractor(s), site rules and Conditions of Approval pertaining to construction activities, and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction.

5.1. In Mitigation Measure N-3, the term "project construction process" is vague, and to be able to be implemented should be clarified as "project construction, commencing with demolition, grading, preparation of the construction storage area, or construction of any permanent structure on 1925 ECDLL or the driveway widening area in the driveway easement on the westerly 1921 ECDLL side yard, whichever comes first."

5.2. In Mitigation Measure N-3, the reference to "businesses" is vague, and to be able to be implemented should be clarified as "businesses that are reasonably known through on-site signage, listing on the mail box, or licensed to operate on a developed parcel in private ownership within 300 feet of the perimeter of the parcel at 1925 ECDLL".

5.3. In Mitigation Measure N-6, the reference to "neighbors" is vague, and to be implementable should be clarified as "property owners and known residents, as indicated by names on the mail box of each house".

6. RM N-7, Construction Noise Barriers. (dfMND at electronic page 35/59)

Stationary construction equipment that generates noise exceeding 50 dBA at the property boundary shall be shielded with a barrier that meets a sound transmission class (STC) rating of 25. Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters.

COMMENTS BY THE EMPRISE TRUST

6.1. The Emprise Trust requests City staff to define the term "stationary construction equipment", specifically that mobile drilling rigs, cranes, trucks, and similar equipment do not constitute such equipment. Enclosure of mobile construction equipment to control noise with a barrier that meets an STC rating of 25 is generally not feasible. (CSA, 2016.)

6.2. Requirement by the City for the staff-recommended (above) enclosure of mobile drilling rigs, cranes, trucks, and similar equipment would likely render such equipment unavailable for project construction, and thereby render project construction infeasible, with a resultant unconstitutional taking of the private property.

6.3. Generators and compressors will be positioned during construction as far as feasible from noise sensitive receptors on adjoining developed parcels, and be provided with STC-25 Acoustical Barrier Blankets or similar noise attenuation barriers.

7. RM N-8, Building Crack Video. (dfMND at electronic page 35/59)

Prior to commencement of construction processes, the project permittee shall provide for prior two-week notification of neighbors and video documentation of existing cracks in buildings and other structures within 300 feet of the project site, and shall submit it to the City of Santa Barbara. Prior to issuance of certificate of occupancy, the project permittee shall provide for prior two-week neighbor notification and video documentation of post- construction condition of buildings and other structures, and shall compensate any neighbors for repair of cracks caused by the construction process.

7.1. The term "commencement of construction process" is vague, and to be able to be implemented should be clarified as "project construction, commencing with construction equipment ingress/egress on the 1921 ECDLL driveway to the temporary construction equipment and material storage and ingress/egress area".

7.2. There is no substantial evidence in the MND record as a whole that previous construction equipment ingress/egress on the 1921 ECDLL driveway (with a non-exclusive right for ingress/egress by 1919 ECLL), the joint (reciprocal easement) 1925-1927 ECDLL driveway, or construction equipment operation on any parcel that has been accessed by either driveway has resulted in any fracturing (cracking) of any building or other structure within 300 feet of 1925 ECDLL.

7.3. The staff-recommended mitigation measure provides for no method by which the City will require property owners (or tenants) within 300 feet of the perimeter of 1925 ECDLL to allow video documentation of the inside, outside, and foundation of their

COMMENTS BY THE EMPRISE TRUST

buildings or other surface and subsurface structures, but irrespective of any methodology to establish liability, would require the Emprise Trust to compensate any neighbors, without limit, for repair of cracks, without limit, identified by a second round of inspection and video-taping and in some undescribed manner considered to be caused by the construction process. Discussions by Emprise Trust project team members with adjoining neighbors at 1917, 1919, and 1927 ECDLL in 2011 identified no observed vibrations or cracking during, or as a result of, City grading equipment transit in 1978 along the 1921 ECDLL driveway and operations on both 1921 and 1925 ECDLL; Doolittle's grading equipment transit in 1984 along the 1921 ECDLL driveway and on 1927, 1933, 1933, and 1937 ECDLL; a neighbor's subsurface geological/geotechnical investigation borings in 2006; Padres' subsurface geological/geotechnical investigation borings on 1921 CDLL; or CSA's large and small diameter subsurface geological/geotechnical investigation borings in the side yards between 1921 ECDLL and 1925 ECDLL, as well as at seven other locations on these latter parcels.

7.4. The staff-recommended mitigation measure is vague, unavoidably intrusive, and infeasible, given (a) the undefined key terms ("construction processes", "other structures", "any neighbors", "cracks caused by the construction process"), (b) the previously demonstrated unwillingness of many of the same property owners to allow review of merely their respective building foundation and construction plans on file with the City, and (c) imposition on the Emprise Trust of financial liability for cracks without first establishing a methodology for determining whether any cracks, if they could be found to exist, were in fact caused by any construction activity. A civil process exists to address such issues, should any cracks be shown to have been caused by construction at 1925 ECDLL, rather than others factors.

7.5. Moreover, the staff-recommended mitigation measure is unnecessary because the project has already incorporated (a) impact avoidance measures through proposed placement and monitoring of appropriately calibrated construction seismometers at the perimeter of the construction site, with a responsive methodology to avoid any (unanticipated) construction-related vibration at the perimeter of the site (CSA, January, 2016), (b) repavement of the 1925 ECDLL driveway (ABDS, Site Plan, Sheet A0.03, June, 2016) in coordination with the owner of the 1927 ECDLL driveway, and (c) repair and restoration of the construction easement area on 1921 ECDLL, pursuant to the offer of a temporary construction easement by the Trustee of the Luz Trust. The Emprise Trust requests City staff's concurrence with these reasonable mitigation measures.

8. Recommended Measure: RM V-1 Lighting Design, (dfMND electronic page 13/59)

The applicant shall submit a detailed project lighting plan for approval by Single Family

COMMENTS BY THE EMPRISE TRUST

Design Board as part of the project preliminary and final design review approvals.

8.1. Although the MND indicates that project visual impacts associated with scenic views, visual character, visual quality, grading, topography, lighting, and glare would be less than significant (Class 3), and thereby identifies no nexus or requirement for roughly proportionate mitigation, recommended mitigation measure V-1 would further reduce less-than-significant project impacts associated with lighting. The Emprise Trust requests clarification from the City regarding the CEQA basis for this staff-proposed mitigation.

9. Recommended Measure: RM WQH-1 Water Quality and Hydrology: Drainage and Storm Water Management Facilities and Plans. (dfMND electronic page 49/59)

Final project plans shall incorporate project components for temporary construction erosion and sediment control and water quality facilities and operations, and post-construction permanent drainage and storm water management facilities and operation/maintenance provisions. Approved drainage and storm water facilities and operations/maintenance provisions shall reflect technical study recommendations and be consistent with City policies, ordinances, and guidelines for construction erosion and sediment control, and permanent storm water management addressing water volumes and water quality.

9.1. Although (a) the project description and plans include a comprehensive storm water management program, including during construction and post-construction project operations, that have been designed specifically to address and meet the applicable adopted City and State drainage and water quality protection requirements, (b) the MND identifies no potentially significant adverse effects of the project on drainage and storm water management, or on any other aspect of the environment, and (c) the MND indicates that the project requires no drainage and storm water management facility/plan mitigation measures, the MND nonetheless requires project compliance with a vaguely worded set of drainage water quality requirements that do not provide or reference clear, implementable standards for specific project compliance. The Emprise Trust requests clarification from the City regarding the basis for this staff-proposed mitigation measure or condition.

Thank you.

Prepared by Norbert H. Dall, Dall & Associates, Consultant to the Emprise Trust.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
08EVEN00-2016-CPA-0149

Planning Commission Secretary
City of Santa Barbara
P.O. Box 1990
Santa Barbara, CA 93102-1990

RECEIVED
AUG 29 2016

August 25, 2016

CITY OF SANTA BARBARA
PLANNING DIVISION

Subject: Proposed Coastal Development Permit at 1925 El Camino de la Luz, Santa Barbara, California

To Whom It May Concern:

We have reviewed the application for the proposed residential development at 1925 El Camino de la Luz. The City of Santa Barbara is proposing to grant a Coastal Development Permit to allow the development in the Appealable Jurisdiction of the City's Coastal Zone. The proposed project would consist of the construction of a new three-story residence with an attached two-car garage on the coastal property in Santa Barbara.

The mission of the U.S. Fish and Wildlife Service (Service) is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. To assist in meeting this mandate, the Service provides comments on public notices issued for projects that may have an effect on those resources, especially federally-listed plants and wildlife. The Service's responsibilities also include administering the Endangered Species Act of 1973, as amended (Act). Section 9 of the Act prohibits the taking of any federally listed endangered or threatened wildlife species. "Take" is defined at Section 3(19) of the Act to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." The Act provides for civil and criminal penalties for the unlawful taking of listed wildlife species. Such taking may be authorized by the Service in two ways: through interagency consultation for projects with Federal involvement pursuant to section 7, or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

Our review of the proposed project indicates that the area that would be affected may support the following species of concern:

Common name	Scientific Name	Threatened or Endangered
Monarch butterfly	<i>Danaus plexippus plexippus</i>	NA

The Service was petitioned to list the monarch as endangered or threatened August 6, 2014, and is currently evaluating the status of the species. Monarchs are known to actively utilize an area approximately 800 feet north of the proposed development for overwintering. Because the

proposed development may have habitat that is suitable for overwintering monarchs, we recommend that focused surveys for overwintering monarchs be conducted in the fall and winter (November through mid-February), following acceptable protocols, if they have not already been completed. If this species is detected or are known to be present in the project area, you should contact us to help determine what measures may be appropriate to conserve the species and its habitat.

If you have any questions, please contact Lara Drizd of my staff at (805) 644-1766, extension 321, or by electronic mail at lara_drizd@fws.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen P. Henry". The signature is fluid and cursive, with the first name "Stephen" being more prominent.

Stephen P. Henry
Field Supervisor

Shelton, Barbara

From: Kennedy, Kathleen
Sent: Thursday, October 20, 2016 6:32 PM
To: Gularte, Beatriz; Shelton, Barbara; Vincent, Scott
Subject: FW: 1925 El Camino de la Luz proposal
Attachments: tree.pdf

-----Original Message-----

From: Nancy Brock [mailto:nbbinsb1@cox.net]
Sent: Thursday, October 20, 2016 5:13 PM
To: Kennedy, Kathleen <KKennedy@SantaBarbaraCA.gov>
Cc: acalonne@santabarbaraca.com
Subject: 1925 El Camino de la Luz proposal

Dear Kathleen Kennedy,

We all know that the overriding issues of 1925 ECdLL proposal are the history of landslides on the property & the site of construction on the restricted ocean bluff face.

However, impactful concerns have not been addressed:

1. The applicant claims the 1978 landslide was "co-activated" by the City. One of the geologists on site, Michael Hoover, & family members Douglas Crawford (1919) & me (1909) have not been asked for our eyewitness reports which differ from the applicant's claim & do not include sewer involvement.
2. Cotton & Shires has an hourglass shaped graphic, slightly radiating above & below the proposed construction, as proof of increased ground stability after drilled caissons & tiebacks have been installed. Where is the claimed proof of lateral security & stability for those of us from 2007 Edgewater through 2001, 1933, 1927, 1919, 1909, 1903 & 1839 ECdLL who sit very near the edge of the most recent landslide? At current market, the total value of these 8 potentially vulnerable homes exceeds \$25,000,000. (1927 sold for \$3,395,000. on 05-15-14 & 1903 for \$3,300,000. on 12-04-14) The potential risk to the neighbors from permitting possibly dangerous construction is exponentially greater than Mr Felkay's claimed loss from a speculative purchase. If building was questionable, why did he not ask for a conditional clause to his purchase? Why did he insist on a 10 day escrow? I have talked to both realtors involved with the sale, neither Linda Mason nor John Villar claimed Mr. Felkay was guaranteed a right to build.
3. Detailed plans of how the toxic debris of the two previous homes will be removed have not been submitted. To what depth must equipment dig to capture the buried remains of the homes? How will the contiguous properties be protected from such a hole? Will Hazmat protocols be honored?
4. Definitive plans for restoring the 1921 "staging area" have not been designed to return to its original contour & vegetation. After reviewing the complaints & violations incurred by Mr Felkay on his previous Santa Barbara development @ 1727 & 1729 Calle Boca del Canon, detailed restoration & assurances must be required.
5. Mr. Felkay's 1921 property has two dead trees that represent a significant fire hazard. Mr. Felkay's promise of 2013, to remove the hazard, has not been included as part of his landscape plan.

10/28/13

DEAR Tom And Nancy,

Thank you for your note about the trees.

I have included their removal as part of the landscaping plan for the rebuilding of a house, but have been unable to get clear information for their removal, independently.

Please let me know how you managed, so that I can proceed without getting fined again - the last time it cost me over \$10,000. -

Sincerely,



P.S. Please use email... mine is
tjclkm@gmail.com